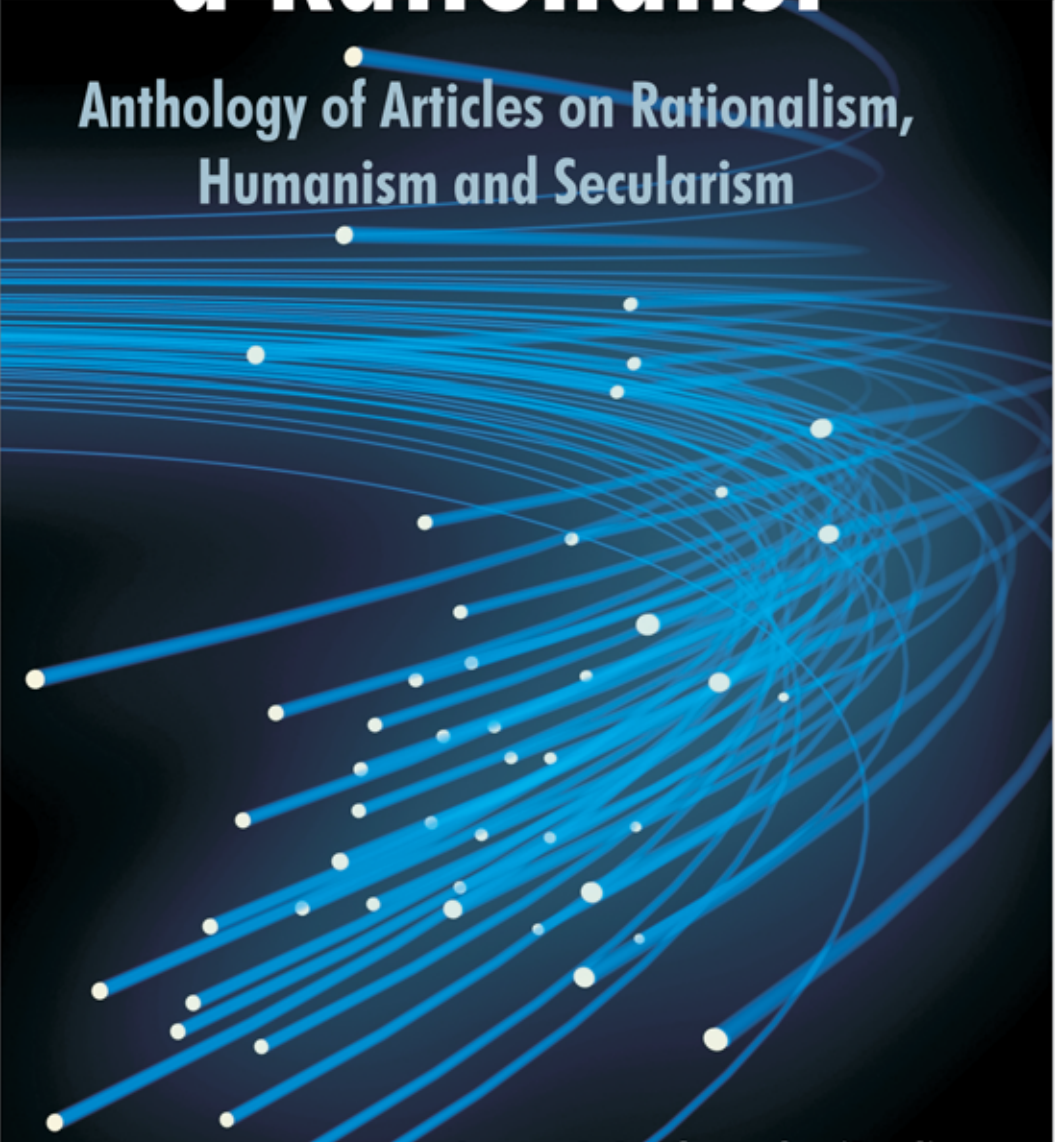




Memoirs of a Rationalist

**Anthology of Articles on Rationalism,
Humanism and Secularism**



Justice R A Jahagirdar (Retd)

Memoirs of a Rationalist

**Anthology of Articles on Rationalism,
Humanism and Secularism**

Justice R A Jahagirdar (Retd)

Rationalist Foundation

ACKNOWLEDGEMENT

The Rationalist Foundation is very much indebted to Justice R A Jahagirdar (Retd) who consented to bring this anthology of his articles. We are also grateful to Dr. (Mrs.) Sharad Jahagirdar, who handed over the materials to us, which were painstakingly preserved by her in spite of her busy professional schedules. The Foundation would like to thank Mr Janardhanan Nair, who assists Justice R A Jahagirdar in typing, correcting and dispatching the articles to various magazine editors till today, for providing us the soft copies of the articles. Without his support the publication of the book would have been considerably delayed. We are very much obliged for shouldering the editorial responsibility by Ms Suman Oak, a well known Rationalist and Educationist and Dr. Narendra Dabholkar for the Preface. We also thank Shri Milind Joshi of Anupam Creations and his team for design, typesetting and bringing the book in the final form.

- *Rationalist Foundation*

C R E D I T S

Memoirs of a Rationalist

*Anthology of Articles on Rationalism,
Humanism and Secularism*

Author

Justice R A Jahagirdar (Retd)

A-3 ASAVARI,

Veer Savarkar Marg,

Near Hinduja Hospital,

Mahim, MUMBAI, 400016

First Edition - August 2009

Published and Printed by Rationalist Foundation

C/o TB Khilare,

RH 4, Rajvimal Terrace, Ramnagar

Colony, Bavdhan, PUNE 411021

Cover Design, Layout & Production

Milind Joshi, Anupam Creations,

2/14 Marwa, Anupam Park,

Kothrud, PUNE 411029

Printed at

Pratima Offset

Devigiri Ind. Estate, Kothrud,

PUNE 411029

© Rationalist Foundation

*Articles may be reproduced freely by
acknowledging the Source and
forwarding copy of the same to the
Rationalist Foundation.*

Not for Sale

Introduction

Justice R.A. Jahagirdar is a voracious reader and a prolific writer whose articles touch all aspects of life. Being a student of History and Philosophy (in addition to Law and Economics) and with an added ability of penetrating logical thinking he throws light on issues and happenings here and abroad. Out of his innumerable writings over a long period, we have chosen only the recent essays and articles as they happen to be more pertinent and crucial in the present situation. These articles have been published in prestigious magazines - Radical Humanist, Freedom First, Secularist and other magazines and are read by intellectuals.

Our aim in publishing the present collection is to expose the youth, the social workers at grass root level like those engaged in "Eradication of Superstition" to Rationalist Thought. The book, therefore, has to be handy, affordable and not much time consuming for a field worker. As Justice Jahagirdar is convinced that all the superstitions rise out of the concept of god. Unless this concept of god - the root of all superstitions is eradicated there is no hope of making any progress in the society. For that Rationalism has to be taken to the grass root level.

As Dr. Narendra Dabholkar points out in the Preface, in the current turmoil caused by global recession no economic theory or political ideology seems to be of any help. Only Reason can pull us out of this quagmire. We therefore thought it appropriate at this juncture to present the selected writings of the enlightened rationalist - Justice R.A. Jahagirdar- in a book form.

The trustees of the Rationalist Foundation express their great

pleasure in presenting this handy volume, "Memoir of a Rationalist: Anthology of Articles on Rationalism, Humanism and Secularism" to the readers with the confidence that it will help sharpen their thinking and assist them to move a step ahead in becoming rational human beings.



Scope of Rationalism

A cursory survey of the History of Rationalism shows that it has been, from the beginning of the movement, directed against Theism based on Revelation, or divine instinct in man. There has been no satisfactory account given in any Scriptures of the West or the East, as to the reliability of the medium through which God has revealed Himself and His religious doctrines to Mankind in any age. The writers of the religious texts said to have been revealed, exercised and laid down several absurd theories and tenets, which, for several centuries were taken as true in the respective localities, by the ignorant and illiterate people, and innumerable superstitious habits and customs thus came into vogue.

Gradually as some people advanced in education and in powers of reasoning, doubts began to be entertained as to the truth and utility of the teachings recorded in Scriptures and their subsequent interpolations teeming with contradictions and absurdities. The faith in the people, in general, grew very strong because of the observance of the rituals enjoined on them, for hundreds of generations, with the result that they were all rooted to the very fibre of their mental constitution; and they could not tolerate any opposition. Rational thinkers have found it very dangerous to interfere with the trend of beliefs and thoughts, prevailing among people.

RD Karve,
Reason, Sept 1934



Preface

The philosophy of Renaissance was unknown to the Indians till the arrival of the British in India. But Rationalism is certainly not new to the Indians. The philosophy of the Charwaks is older than the Vedic philosophy. The Vedics tried their best to wipe out the materialist and secularist teachings of the Charwaks; yet it survived the onslaught. However the fact remains that although there had ben any number of reformists and rationalist thinkers like Kapil, Kanad, Buddha, Mahavir, Mahanubhav, Dnyaneshwar, Tukaram, Ekanath, Agarkar, Ambedkar and Hamid Dalawaai the Indian society at large has remained superstitious. Of course this is true of all the religious societies all over the world. Everywhere one sees growing religious revivalism. One reason why religious revivalism dominates over rationalism can be that Rationalists fail to reach the downtrodden people at the grass root level.

The religiosity of the people is nourished by our shrewd priestly class and politicians as they need blind, unthinking followers and not those who have independent minds and the courage to express themselves. They will oppose all the efforts of the rationalists to eradicate superstition from the society.

The unbridled market oriented and regulated capitalist economy lacking human concerns seems to be finally plummeting. The global recession caused by it has set humanity rethinking in search of a new philosophy. That philosophy is Humanism, the philosophy of the Renaissance Movement. Humanism will have to be the philosophy of the 21st century that aims at moral and material progress of Humanity as a whole, ensuring a life of dignity and wellbeing for all.

To remove the economic and cultural disparities, the 21st century Humanism has to be Radical Humanism that is actively interested in the deprived and the downtrodden section of the society. Radical Humanists are more than mere atheists or rationalists. They have an integrated philosophy of universe, nature and life. They aim at reconstructing the society on the basis of reason and freedom; freedom of every human being making decisions with his own intellect without being pressurised by any agency other than himself or herself be it god, ideology, tradition, police, state, whatever.

The topics of discussion in these articles range from important historical events like the destruction of the library at Alexandria, Buddhism, to Evolution, Caliphate movement to the current topics like Freedom of the Press, Police Investigation, Terrorism, etc. Rationalism and its other side Humanism form the common binding principle of all these articles. Justice Jahagirdar puts every issue in its proper perspective by exposing and highlighting the facts hidden from the public by interested parties. For example, in the essay on Alexandria Library, he brings to light how the male chauvinist Archbishop of Alexandria, jealous of the erudite female mathematician-philosopher Hypetia (who was also very beautiful) engineers her assassination; and how the Christians spread the false story that Omar, the second Caliph destroyed the priceless library when the real culprit was saint Cyril. The other articles too, the reader will find interesting and helpful in developing an incisive rational approach.

Pune

Dr. Narendra Dabholkar

Maharashtra Andhashraddha Nirmoolan Samiti

“

Good social system: A need of the hour

“You can not have good social system when you find yourself low in the scale of political rights, nor can you be fit to exercise political rights and privileges unless your social system is based on reason and justice. You cannot have a good economic system when your social arrangements are imperfect. If your religious ideals are low and groveling you cannot succeed in social, economic and political spheres. This interdependence is not an accident but the law of our nature. Like the member of our body you cannot have strength in hands and feet if your internal organs are in disorder. What is applied to human body holds good of the collective humanity we call society or state.”

Mahadev Govind Ranade

”

Content

1.	I've a Dream	10
2.	Emile Zola	14
3.	Huxleys.	18
4.	Jinnah - An Assessment	23
5.	The Trial of M. N. Roy	29
6.	Mutiny or War of Independence.	34
7.	Shias and Sunnis: A Great Divide.	37
8.	Caliphate or Pan Islam	42
9.	Tolerance & United Nations	51
10.	Universal Declaration of Human Rights	55
11.	Criminals in India	60
12.	Freedom of Press.	69
13.	Fundamental Duties: A Misconception	74
14.	Police & Investigation.	79
15.	Judicial Activism	83
16.	National Anthem.	90
17.	Disappearances	96
18.	Alexandria Library	100
18.	Democracy in India.	103
19.	Conversion and Humanism	107
20.	Terrorism in the State	113
21.	On Tackling Terrorism	117

22.	A History of Terrorism	124
23.	The Road to Buddhism.	127
24.	Portrait of Prophet	133
25.	Was Veer Savarkar Really "Veer"?	138
26.	Astrology and Astronomy	144
27.	Charles Darwin	152
28.	Evolution, Creation and Intelligent Design	158
29.	The "Monkey" Trial	163
30.	Science, Superstition and Supernatural	166
31.	Conversion & Humanism	172
32.	Conversion and Sarva Dharma Samabhav	178
33.	Secularism in India	183
34.	On Secularism: Second Outlook	188

"I've a Dream"

That is how the speech given by Martin Luther King Jr. is known all over the world. Probably that speech changed the ethos of the world. He was almost like Nelson Mandela, a black who changed the hearts of his enemies. The speech was delivered in front of nearly 200000 black people on 28th August, 1963, five years before his assassination. Like Mahatma Gandhi, Martin Luther King Jr. was also assassinated. His dream became fulfilled; Gandhi's was not.

In the western countries there is a system under which the father's name is given to the son. If George Bernard has a son and the father is also named George Bernard, then the father is known as George Bernard Sr., while the son will be called George Bernard Jr. In our case, Martin Luther King Sr. was the father. Our hero became Martin Luther King Jr. They belonged to the State of Georgia. When we refer to Martin Luther King Jr., we shall simply refer to him as King.

King was born in 1929 and was assassinated in 1968, before he completed 40 years. His father was a pastor at Atlanta. King completed his doctorate in 1954, when he was just 25 years old. It opened a door for a good academic career. He did pasturage of Dexter Avenue Baptist Church in Montgomery, a place in the State of Alabama. Baptism is a sect in Christianity. Christianity is not one religion. It has got sects such as Baptism, Presbyterian etc. Baptism is actually a method of initiating one into a Church. St. Paul was the inventor of this method.

In 1957, King, with others, founded the Southern Christian Leadership Conference, briefly known as SCLC. The object of this organisation consisting of black priests was to follow a non-violent direct action against segregation. Actually, it was unnecessary to start a new organisation because in the celebrated judgment (unanimous), the US Supreme Court in *Brown vs. Board of Education* in 1954 held that “segregation was illegal”. It held in the opinion, which was unanimous, that separation and segregation were inconsistent. Incidentally, Chief Justice Warren and Chief Justice Gajendragadkar were contemporaries. Later also they worked together in the International Labour Organisation at Geneva. King spent some valuable time with Nehru, though King was not holder of office. Tragically Nehru passed away in May, 1964.

The fight for desegregation in US was not over. King came to India in 1959 to study the method used by Mahatma Gandhi and study Indian conditions. This was also in one sense unnecessary because a Satyagraha had been started prior to that in U.S. itself. Miss Rosa Park, a seamstress by profession, refused to vacate a seat in the bus reserved for white people. She was arrested and jailed. Later she died in 2006. Her action applauded by people in the US encouraged others to boycott the Montgomery bus service. The segregation in the bus was withdrawn. In 1964, Lyndon Johnson who had succeeded Kennedy, signed the Civil Rights Act, though the black Americans got the voting rights in 1965.

Going back a little in history, King kept up the activity of SCLC to change the public opinion and to strengthen the legal challenges to segregation being made by the National Association for the Advancement of Coloured people. At one time, it was thought that segregation of equal and separation was legal and legitimate. Enlightened opinion was of the view that what is separate is not equal. *Brown* had given a deathblow to that theory. What is separate can never be equal.

In the meantime the fight for desegregation was going on. King and

SCLC organised a number of protests and meetings. In one instance in 1963, the Police Commissioner unleashed police dogs and strong water against peaceful demonstrations. King was in Birmingham Jail. From there he argued that one who breaks an unjust law to arouse the consciousness of his community is in reality expressing his regard of law. This is how the opinion of a political philosopher John Rawls. It is also in tune with what Thoreau said in 1859. This was the thought Mahatma tried to inculcate among Indians. King was also the leading fund raiser for his organisations.

Once the desegregation was accepted and the Civil Rights Act came into force, King started other activities for his people. He started campaigns for the elimination of poverty and education of the people. King did not withdraw from peaceful demonstration where it was necessary. On a similar occasion, he had been to Memphis in Tennessee State to take part in garbage workers union when on April 4, 1968 an unknown person assassinated him.

King was a Nobel Prize winner; he was a noble man. In a speech reminiscent of “what you have done for your country” by John Kennedy and “Tryst with Destiny” of Nehru. King delivered a speech before an audience of more than 2 lakh people, a speech known as “I have a dream”. In that speech he spoke of non-violence, equality of people. He said:

“When the architects of our people wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note where American was to fall heir.”

The speech which he delivered standing on the Potomac River and between the Jefferson and Lincoln Memorials is worth committing to heart by at least the present generation.

He said:

“When we allow freedom to ring, when we ring from every village and every hamlet, from every State and every city, we will be able to speed up that day when all God’s children, Black men and White

men, Jews and gentiles, Protestants and Catholics, all be able to join hands to sing in the words of the Old Negro spiritual. Free at last; free at last, free at last “

Earlier, in the speech king had orated:

“I have a dream that our children will one day live in a nation where they will not be judged by the colour of the skins, but by the contents of their character.”

Americans have woken up to the greatness of King. He will not be forgotten. A big museum is planned for him where opera and gospel will be sung, poets and their lines will be recited. And last all his “I have a dream” will be sketched. His memorial is expected in the national mall. When the memorial is complete, about one million are expected to visit each year.

In 1964 he was given the Nobel Prize for peace. As I have told you, he was assassinated on 4th April, 1968. So the grateful American nation is observing on 4th April, every year as King's Day.



Emile Zola

Despite a vast number of books written by him, Emile Zola is not and was not known by many people outside France as his works, naturally, were in French. He became famous because of his novel “Nana”, a study of prostitution. But he achieved international fame by his articles on the trial of Capt. Alfred Dreyfus. He waged an epic battle for truth and justice. He was fighting against the French military and well entrenched prejudice against the Jews.

Emile Zola was born at Aix in 1840. His father was a person of mixed race partly Italian and partly Greek; his mother was, however, French. Zola grew up as a Frenchman and was a French citizen. He grew up in great poverty and hardship. Because of the innate intelligence and of the stuff as a great writer he was made of, he surmounted all the difficulties.

He was a patient and industrious observer and noted the nuances of life around him. He wrote a number of novels about French life dealing with its several aspects. His novels did not achieve greatness for a long time. Some novels, nevertheless, were famous and brought him fame and wealth.

A man of great discipline, he wrote everyday some pages. By the time Dreyfus affair occupied him, he had become a great writer of international fame. Though many critics did not like Zola's realism, Zola stuck to his art of holding a mirror to nature. His literary skill was generally admitted, and earned him immense public esteem.

But for the passion of storm raised by the Dreyfus affair, he would have probably won a seat in the Assembly.

The French Revolution of 1789 proclaimed “liberty, equality and fraternity”. The Jews, however, did not get liberty. It was not as if the Jews were handicapped in France alone. For centuries, the Jews were not citizens all over Europe. Two years after the Revolution, however, the disabilities of the Jews were removed. They could even become members of the Assembly.

Law might have helped the Jews but popular prejudice prevailed against them. It was prevalent till Hitler's time. Now that they were full-fledged citizens, they could even join the Army. Capt. Alfred Dreyfus was, at the relevant time, an officer of the French General Staff, but he was a Jew. He was convicted of passing secret military information to Germans and was sentenced to confinement on the notorious Devil's Island. His attempts to prove his innocence failed. The real culprit, as disclosed subsequently, was one Major Esterhazy but the fact that Capt. Dreyfus was a Jew coloured the proceedings and minds of the authorities. In fact, facts later disclosed that anti-Semitism was the factor that condemned Dreyfus.

The case caused a great stir in France. Fortunately, many thoughtful people were disturbed about the verdict. Initially Zola himself had misgivings, but he proceeded to examine all the aspects of the case and after doing so he was convinced of the innocence of Capt. Dreyfus. The powerful clique of French Army was difficult to challenge. So Zola went to publish an article, now famous as “J' accuse” (I accuse). It was a long indictment, every paragraph, of which began with “J” accuse. It was a strong denunciation of those involved in the scandalous trial and conviction. Leading politicians and high military officers came under the fiery accusation of Zola. They were naturally stung by Zola's fury.

It required great courage on the part of Zola to take on the establishment as he did. But Zola's object in mounting the attack on the military was not libelous; it was done with a view to compel a

new judicial inquiry in the whole affair. Though he knew the power of the ruling class and of the military to influence the course of justice, he went ahead with the publicity, with the fond hope of getting the wrong righted. The result was expected. The nation which admired the great literary figure was in ferment. The army fell and in fact, was humiliated. The army could not take the humiliation and it decided to prosecute Zola himself. At the trial a fresh flood of light was thrown. But Zola was convicted of libeling various staff officers. Zola carried the matter in appeal and succeeded. The proceedings were quashed and a new trial ordered. A new trial took place and before the final order was passed, Zola fled to England.

“Truth was on March” wrote Zola. Changes had taken place in the establishment, especially in the military. One of the staff members involved in the conspiracy committed suicide. Major Esterhazy, the real culprit and traitor, ran away. That was the time when the French Army was known for its strength, discipline and chivalry. It was naturally a great scandal that two officers should be a part of a conspiracy against one of the army's own officers.

A revision of the trial took place, but Capt. Dreyfus, thought innocent, suffered the stigma of having been to Devil's Island a sort of “Kala Pani”. Zola, however, returned from his voluntary exile in England. Capt. Dreyfus, though only 35 years of age, looked an aged man having white hair. Capt. Dreyfus was given pardon and was obliged to continue to clear his name.

Zola, some thought, should have been prudent and should not have fame and popularity by taking up the cause of Capt. Dreyfus. But Zola who had been preaching justice and truth in his literal works found it necessary to do this work for a cause.

Emile Zola died in 1902 but France was little slow in paying adequate tribute to this great son of the country. Zola did not survive to see the complete vindication of Dreyfus's cause. But at least as a result of his efforts Dreyfus was snatched from Devil's Island and returned to his

family. This must have been great comfort to Zola.

The fierce controversy raised by Dreyfus affair took some time to subside. Six years after Zola's death, his body was conveyed to Pantheon where the great and famous of the country rest in peace. On this occasion in the presence of the gathering, which included Capt. (now Major) Dreyfus, Anatole France delivered an oration which included the following words:

“There is no place anywhere save in justice, no repose save in truth. He was a moment of the conscience of mankind”.



Religious Hallucinations

Where there is a strong will to believe argument is of no avail, but to anybody who really want to find out the truth, a study of hallucinations is indispensable. It will explain how grossly absurd statements came to be commonly believed by people who are to all appearances reasonable in other matters, but who will not listen to argument where religion is concerned. I know a religious gentleman, who is now dead, who resolutely refused to read rationalistic literature because he was afraid that it might possibly make him change his views. But people can of course decide for themselves whether they prefer religion or knowledge.

- R D Karve
Reason, Oct 1932



Huxleys

Humanists everywhere will remember Huxleys with admiration and affection because Huxleys have been conspicuous for intellectualism and humanism for three generations, spreading over two centuries. The family of Huxleys show a remarkable combination of intellect and emotion. That they were humanists too is well known. Thomas H. Huxley, the grandfather of Julian and Aldus Huxleys, was already a famous scientist when Darwinism was being debated.

T.H. Huxley was described as Darwin's bulldog because he defended the theory of evolution both in speeches and writings in 19th Century. He was not afraid or ashamed to say that he had descended from an animal (as all men are descended). Evolution, with certain modifications, had stood the test of rational and scientific inquiry. Even the Church has rehabilitated Darwin. Men of religion and the Church have raised their views of evolution, though creationism has made its arrival in U.S.A. T.H. Huxley coined the word "agnosticism".

The Huxley family was an excellent intellectual family. T.H. Huxley was a contemporary of Darwin, Spencer and Tennyson. The nineteenth century England made and was making great strides in science. From the autographies and biographies of Huxleys it can be seen that even the sons-in-law of T.H. Huxley were distinguished in their fields. They were doctors, archeologists, biologists, etc. As can be seen by later developments, Huxleys showed that literature and

science were not in a sense separate. Huxleys were scientists, but they were also good authors.

Right from childhood, T.H. Huxley had shown remarkable qualities of mind. He had studied not only logic but also German language. Probably on the basis of an essay he had written, he got a job in the Navy. He made use of this position to study biology, especially botany. For some time he made research in medical science. In those days you could acquire knowledge in many branches. T.H. Huxley was versatile.

His son, Leonard, did not become famous. He was a professor and wrote the biography of his father. Leonard's two sons, Julian and Aldus, became world famous. Born in 1894., Aldus was educated in Eton and Baikal College. He became the author of several books. The most famous of them are: "The Brave New World" and "The Perennial Philosophy". It must be admitted that he had a mystical mind. I do not think Humanists will like the above-mentioned publications.

Sir Julian Huxley, born in 1887., was older to Aldous Huxley. It is invidious to compare, but it can be said that though Aldous has more publications to his credit, Sir Julian was more brilliant, though not more intellectual. He was, like Aldous, educated at Eton and Baikal College. He was professor of Zoology in King's College, London. His publications include "The Stream of Life", "Watching and Bird Behaviour", "At the Zoo" and Action".

Right from childhood, Sir Julian had interest in both literature and science. After going to Oxford University, he made a study of botany, and later, on his own, conducted research in the subject. He was fond of brave things. He developed the hobby of watching birds and he classified them. He attracted the attention of the people by his writing on the peculiarities of birds and trees. His writings were in simple language so that the common man could understand. He could explain even complicated things. For example, he could and did explain how a cobweb is woven. He was a good speaker that

people listened to him in rapt attention. In popularizing knowledge of Ornithology, Julian Huxley played a big part.

After graduation he went to U.S.A. as head of an institute engaged in rice research. Julian was not content with the job. In order to equip himself to head that institution, he migrated to Germany. He did research there for a full year. Julian's work was useful in improving the quality of rice. Simultaneously he started contributions to "Science and Life" series of a scientific journal. This journal was devoted to spread knowledge of man and plants and the relationship between the two. He was particularly interested in the evolution of plant life. In 1955 Julian was appointed as the Curator of London Zoo. During the time he was in this post, he brought about several improvements and made the zoo popular among the general public.

He went to Africa in search of knowledge. He was a member of a committee in England headed by Hailey. Julian's interest lay not merely in science. He took great part in the formulation of welfare measures during war time. The field of his activities went on increasing. He started exhibiting interest in finding ways and means of reducing man's work and increasing his leisure hours so that he can work in constructive fields. There are few people who foresee the future and Julian was one of them.

The Lysenko's doctrine which was popularized by Stalin in order to show that communist regime could improve the quality of man was in vogue after the Second World War. It was Jacques Monod of France who demonstrated that human personality, as the personality of any animal, can change only by genetic change, and not by externally acquiring properties. The Lysenko thesis was in line with Lamarck who had held, among other things, that giraffe had long neck because it sought its food from a long distance. Julian had a meeting with Lysenko whom he convinced about the unscientific nature of Lysenko's thesis. After the death of Stalin there were no takers for Lysenko's view which died a natural death.

Sir Julian was a very sensitive man and constantly reacted to

contemporary events and anticipated future developments. He was a strong believer in family planning and theory of evolution. By artificial means you cannot improve the quality of man. He pointed out in his autobiography that our earth is like a pebble on the beach of sea so insignificant. And man was one creature in the world of pebble. There are billions and billions of creatures on the earth.

As the first Director-General of UNESCO, he was instrumental in bringing out “History of the Scientific and Cultural Developments of Mankind” a book which would make any one proud. Even after Huxley retired, work on this book went on and Huxley bore the responsibility for its production.

Julian was interested in archeology and history. He travelled to several countries to study their monuments. When Aswan Dam was to be constructed, it was seen that Pharaoh's temples would be submerged and would be lost to mankind. The UNESCO financed the shifting of the temples. Similarly, several historical moments were saved in other parts of the world. He travelled extensively in India and saw India's historical culture. He was considerably impressed by the Konark Temple. Sir Julian realized the importance of not only family planning but also economic planning for India. India honoured him with Kalinga Prize.

The Huxley family with its intelligence and intellectualism dominated the Western world for three generation. Each member of the Huxley family was prominent in his own field. Sir Julian, however, was prominent in several fields. He was a scientist, archeologist, bird and plant life expert and above all a practical philosopher. He was interested in man and mankind.

Sir Julian was a great humanist. He presided over a meeting in Amsterdam in 1952 that founded IHEU. His book “Essays of a Humanist” shows a humanist should approach human and other problems. He was a humanist even before humanism was emerging as a philosophy after the Second World War. He mentions at one place that “the idea of evolution has kindled my imagination while I

was still in the school". As an undergraduate, he became a firm Darwinian. The first public lecture he gave was on evolution.

Thanks to his visits to East Africa, USSR and other countries, he became interested in human ecology for some time with an organization called "Political and Economic Planning" (PEP) on various projects, including the place of art in national life.

As Director-General of UNESCO, he realized that the world had different views. He wrote the pamphlet "A Philosophy for UNESCO" giving a set of ideas and principles for the working of the organization. He was of enough humility that he realized no single system of ideas could be acceptable to any United Nations Agency in the world's state of ideological chaos.

However, he was impressed by the vast knowledge lying abroad in the world. He planned to make it available to mankind. Even after him, the UNESCO has faithfully though not adequately, tried to follow the guidelines of Sir Julian. The book "Humanist Frame" (edited by him) contains articles by eminent thinkers like C.H. Waddington, J. Bronowski, H.J. Blackham, Stephen Spender, etc.

Sir Julian passed away in 1975.



Jinnah: an Assessment

“You may belong to any religion or caste or creed that has nothing to do with the business of the State. ... We are starting with this fundamental principle, that we are all citizens of one State.”

These are not the words of a confirmed secularist. This is what Mohammad Ali Jinnah told the first meeting of the Constituent Assembly of Pakistan on 11th August, 1947. These words were echoed by Mr. L.K. Advani when he was the Deputy Prime Minister of India and when he visited Pakistan on the latter's invitation. He also called Jinnah a secularist. Recently, General Musharaf has reiterated Jinnah's words. He reminded his listeners that Sarojini Naidu had called Jinnah “an Ambassador” of Hindu Muslim unity.

The result was a great uproar in Rashtriya Swayamsevak Sangh. Any words of praise for the founder of Pakistan were an anathema to the Sangh which called for the blood of Mr. Advani. They completely forgot that Sarojini's words were uttered in 1911 when Mr. Jinnah was a leader of the Congress and he played an active role in politics as a nationalist. It was only around 1930 he broke away from the Congress when he felt that he was distrusted by the British, discarded by the Congress, and rejected by the Muslim League. Though Mr. Motilal Nehru once called him “a communal wolf in nationalist clothes” (“The Man who divided India” by Dr. Rafiq Zakaria), at that stage Mr. Jinnah had ceased to be a nationalist.

Mohammad Ali was the first child of his parents born in Karachi. His

father was Jinnabhai Poonja (born in 1850). There is some dispute about Jinnah's date of birth. In the school it is registered as 20th December, 1876, but it suggested that Jinnah himself got it changed to 25th December to show that he was born on the same day as Jesus Christ. Jinnah, with his intellect, forgot that 25th December was fixed by the then Pope. No one really knows when Jesus was born. Originally Christmas, as the birthday of Christ, was celebrated in March. But Jinnah's action showed his own selfishness because he wanted to be remembered as having born on 25th December.

In his school days he was not particularly bright. It is reported that he was irregular in school attendance and wandered in the city. Once his father's sister, who was resident of Bombay, visited Karachi, she liked the boy, took him to Bombay. The result was not different. His school days continued in the same pattern, though he was vastly impressed by Bombay.

Jinnah was admired by people who came in contact with him for the sharp intellect and argumentative ability. Jinnah developed an ambition to go to England to study law. His mother was, however, apprehensive that he might be trapped by some British girl. So she insisted that he married before he went to England. He was then 16 years old. He married a girl, who was 14 years old. The marriage was held and within three days Jinnah sailed from Karachi. It shows one of Jinnah's characteristics being indifferent to others and haughtiness. By the time he returned after four years, both his wife and mother had died.

Jinnah belonged to Khoja community among the Muslims. He shortened his name Jinnabhai by deleting "bhai" from the name. So he became Jinnah. He had seen Bombay which he liked and decided to settle there. His father, originally a rich businessman, later suffered heavy losses and wanted to be looked after by his eldest son. That for some reason was not possible. Therefore he went to Ratnagiri, south of Bombay in the coastal region.

Jinnah set up legal practice in Bombay and amassed work. Though it

is reported that he charged as much as Rs.1500 per case, it was doubtful considering that Rupee meant a Rupee in those days. But by any standard he was a good, intelligent lawyer. There is a case reported in the Bombay Law Reporter that Jinnah appeared in a case only to argue on costs. Nehru and Jinnah had no love between them. It was unfair of Nehru to say that Jinnah was a poor lawyer. Nehru's intense hatred of Jinnah, according to Nehru, helped illuminate the true source of Jinnah's power. In fact Nehru went to Harrow and Cambridge with his father's blessing and never practiced law. On his return from England, he plunged into politics. He took to Khaddar which he called livery of freedom. Though Nehru and Gandhi were of different views and temperaments, he always suppressed them and became an obedient follower of Gandhi.

Jinnah was never to do anything of this kind. Right from the beginning he was a nationalist and member of the Indian National Congress, though he never toed the official line. He always thought that if India has to win freedom or even dominion States, it should be on legal and constitutional methods. He sharply disagreed with Gandhi's non-cooperation or civil disobedience and stuck to this point to the last. On every session of the Congress he attended, he expressed his disagreement with Gandhi. Despite this, he remained a nationalist for long. Sarojini Naidu called him an ambassador of Hindu-Muslim unity a sentiment which was echoed by Gokhale. Jinnah had said that in politics he would be Muslim. The grateful citizens of Bombay collected enough money to erect a Jinnah Hall in the Congress Bhavan at Girgaum in Bombay. Though the Hall is there, its name has been changed to P.J. Hall (Peoples Jinnah Hall) after Jinnah became a champion of Muslims and President of the Muslim League.

Jinnah never belonged to any party, except when he was the party. In his negotiations with Congress and Gandhi, his only Mantra was "Pakistan". He never clarified what his Pakistan was. The provinces where Muslims were in majority were obviously included. But he noticed yet ignored that among about 300 Muslim delegates in the

Muslim Conference, there were 160 from undivided India. This never bothered him. He wanted Pakistan.

In the meantime, a few years after giving birth to a daughter Ruhie died. She was fond of cats and dogs in whose company she spent more time than in her husband's. She unfortunately fell ill and died at the tender age of 29. Jinnah grieved not for long. His interest in politics and law helped him to overcome the grief fast. Jinnah had developed probably one obsession that of Pakistan, the contents of which he did not know. He publicly proclaimed that Musalmans are divided into different sectors Shias, Sunnis, Pathans, Memons, Khojas, etc. they are still one nation as they believe, unlike Hindus, in one God, one prophet as the last Prophet. He had also developed hatred towards Gandhi and Nehru. The latter was a cultured man who on many occasions differed from Gandhi, sometimes on vital issues, ultimately succumbed to Gandhi. Jinnah never liked a second place in any organisation. By 1920 Gandhi had captured Congress and was called Mahatma by his followers. To Jinnah, however, he remained Mr. Gandhi to the last. I think that was one of the reasons why he disliked the Congress.

Jinnah always insisted that India had two parties one the Congress representing the Hindus and the second the League which represented the Muslims. He deprecated the idea of "Vande Mataram" at the Congress sessions. He deprecated it more because, he thought, the Congress imposed it upon the country and non-Hindus. He always insisted that the Congress represented only Hindus and the League was the sole representative of Muslims. This he did in public speeches; he did it in negotiations with Gandhi and Congress. He has often pointed out the weakness of Pakistan of his vision. But he never wavered in his pronouncement. People wondered whether he really believed in Pakistan, but he made it appear that Pakistan was really the need of Muslims, though he knew that more Muslims resided in what would remain of India than those that would be in Pakistan. He thought that the Congress and in particular Gandhi had tried to humiliate and to make him humble.

When in 1937, B.G. Kher asked him to become a minister in Bombay Cabinet, he replied that Gandhi should ask him. Unfortunately Gandhi gave reply in the letter in which there was no invitation to become a Minister. Probably Gandhi thought that it would be acknowledging Jinnah to be the sole representative of Muslims.

There were many occasions when he felt irritated by the attitude of Gandhi and Nehru towards him. He took his vengeance by repeating in his talks with Congress leaders, including Gandhi, and the British leaders that nothing short of Pakistan will satisfy the Muslims. When, in order to deter him, the British and the Congress warned him that Punjab and Bengal would also be partitioned, initially he grumbled that he would not accept a “moth eaten” or “truncated” Pakistan, but ultimately accepted. It is said that he would complain about the food given to him but would eat it. He demanded 800-mile corridor between East and West Pakistan but it was firmly rejected by other parties. He then quietly accepted the truncated Pakistan.

Nehru and Jinnah were almost of the same age. Nehru was at the Bar only for a few days. His father gave him enough money for Harrow, Cambridge and Bar education. His father was a rich and prosperous lawyer at Allahabad. He fell under the spell of Gandhi and joined Indian National Congress which was then fighting for freedom under the leadership of Congress. It can be safely said that he became almost a blind follower of Gandhi. He occasionally smoked and drank wine. He was the only son of his parents, though he had two sisters. He was a regular wearer of Khadi which he believed was livery of freedom.

Jinnah was made of a different stuff. Right from the beginning he always wore a three-piece suit. Though a Mussalman, he had no hesitation in drinking and eating pork. Nehru had married a girl which his parents had chosen for him. But not so Jinnah. At the age of 14 he fell in love with a girl of 16. The latter also was infatuated with Jinnah. Ultimately much against the bitter feeling of her father,

Sir Dinshaw Petit, a very rich man of Bombay, they married. For this crime, Sir Dinshaw never spoke to her. Jinnah's marriage was inter-communal. One would think he was a secularist. Not so. He opposed the marriage of his only daughter, Dina, who fell in love with Neville Wadia, a Parsee, who had been converted to Christianity. Neville's son, Nasli, is now the Chairman of Bombay Dyeing empire. That was the extent of his secularism. As his insistence of Pakistan shows, though initially he was a nationalist, he had, when Dina was of marriageable age, become a communalist. Nehru, a modern man, wore Khadi. He often differed from Gandhi but always followed the Mahatma. Jinnah never liked Gandhi in fact he hated "Mr. Gandhi". He refused to call Gandhi Mahatma. He was told that Pakistan of his conception was impracticable but he never gave up the demand. That was his obstinacy.

In short, Jinnah was -

- (i) modern in dress and food, but not in outlook;
- (ii) completely indifferent to others' views;
- (iii) non-religious but was communal;
- (iv) originally secular but his hatred of Gandhi and Nehru had led him to hate Hindus.

Towards the end of his life (September 1948) he was suffering from Tuberculosis and lung cancer because he was a chain smoker. Mountbatten thought that India and Pakistan should have in the beginning, at least, common Governor-General, but Jinnah vetoed the idea because he wanted to become Pakistan's first Governor-General. Pakistan he created has seen three military rules and the murder of a Prime Minister.

Neville Wadia left India after he divorced Dina; Dina moved to New York city and lived alone. Her only son, Nasli, is in India. Thus there is no Jinnah in Pakistan.



The Trial of M. N. Roy

It is too late in the day to discuss the trial of M.N.Roy. Radical Humanists know that Roy had left India when he was about 18 years of age. He traveled to America and then to Mexico; he founded the first Communist Party of India outside the USSR which had by then come into being. He learnt Spanish and wrote books and articles in Spanish. At the invitation from Lenin he traveled to Moscow and played an important role in the Communist International. Later he visited China. On 7th October 1920, he founded Communist Party of India, but in Tashkent. CPI could not have been established in India because it would have been illegal. Later he was expelled from the Communist International. The vilification of Roy by the Communists continued as they were then as till after the fall of USSR acting on instructions from Moscow. These details probably known to most of the Radicals, are being recounted to show that Roy, after leaving India in search of arms, never visited India till 1930. He could not have committed any illegal act or offence in India during that period. But the Penal Section of the Indian Penal Code is widely worded. Section 121 as it then stood was as follows:

"Whoever wages war against the Government of India or attempts to wage such war or abets the waging such war shall be punished with death or imprisonment for life and shall also be liable to fine"

Section 124-A dealt with the conspiracy to commit offence under Section. 121.

Section 124-A.....in so far as is necessary for our purpose said, "Whoever by words, either spoken or intended to be read----attempts to excite feelings of disaffection to the Government established by law in British India shall be punished with....."

Justice Davar rejected in Tilak's case the view that there can be no offence against the Section unless the accused either counsels or suggests rebellion or forced resistance to the Government.

Some observations are in order. The offence Sedition did not mean that the person be made punishable for mere use of words but when the words used are tantamount to disorder or disaffection. Section 124-A, even as it then stood, punished when the words used the character of action. The Section has been amended several times and has been the subject matter of decisions of the Privy Council and the Supreme Court of India.

Roy was outside India for 25 years. He could not be arrested. After the breach, in 1929, with the official Communists, he arrived in India with a stolen passport. He assumed the name of Dr. Mahamud, met several people clandestinely and even attended the Karachi Congress. During all this time the police were after him. He was ultimately found out on 21st July 1931 and arrested on the basis of a warrant issued in 1924 when he was not in India. The communists in India, of course, called Roy "renegade" and a man who had diverted 'Bolshevik Gold' to his own personal use. The communists' campaign of vilification of Roy knew no ends.

In 1924 the Kanpur Sessions Judge convicted, on charges similar to those against Roy, S.A.Dange, Muzzzzpar Ahmadete. The shrewd British Authorities selected Kanpur as the venue of the trial where no jury system was prevalent. The place also avoided demonstrations. The trial was not held as usual in the open Court but behind the walls of jail where Roy had been lodged. Mr. Rose-Alston, was the Chief Counsel for the prosecution. Roy's trial is called the Kanpur Conspiracy trial because the charges in the original trial in which Dange and some others were convicted could not be held against

Roy since he was outside India at that time. His trial was separated and was held when he was arrested in 1931. This was the first and the last trial of Roy.

Roy challenged on several grounds some of which were as follows.

1. The trial was without justification.
2. The trial should be held in the regular open court.
3. There should be trial by jury.

The challenge was rejected.

There was a long list of charges but basically it was that Roy had by communications from abroad instigated the people of India to deprive the King Emperor of his sovereignty of British India. In his written statement Roy argued that the British King had no sovereignty over India but the statement was not allowed to be read, nor was it taken on record. Under section 342 of the Criminal Procedure Code, an accused can explain the circumstances appearing against him. The Supreme Court has now held that the accused can explain even under a written statement. Roy's aim was to tell the world that Britain had no legal Sovereignty over India.

Ultimately the Session Case opened on 3rd November 1931. Instead of the Jury, there were four assessors. For obvious reasons there could not be oral evidence. Evidence consisted entirely of letters written by Roy which were intercepted or obtained otherwise from the recipients. Copies or photographed letters which were intercepted and reposted and pamphlets and other publications which accompanied the letters also formed part of the evidence.

Two of the four assessors found Roy "not guilty". The sessions Judge, however, proceeded to hold him guilty and to accord a sentence of six years of rigorous imprisonment.

An appeal was preferred and it was heard by Justice Thomas. The appellant's advocate was young and able K.N.Katju, assisted by D. Sanyal. Katju argued that the court had no jurisdiction, no charges were probably formed, Roy had not properly been committed to the

Court of Sessions, inadmissible evidence was relied upon, etc. Katju argued on merits of the evidence that the accused should not be punished for what the Court regarded as extreme views, that the accused did not instigate revolt. It was also argued that law by itself does not prohibit a person from having extreme views and academically discussing them. In short the accused has not acted in pursuance of his views.

The appellate judge dismissed the appeal but mercifully reduced the sentence to six years. The appeal was decided on 2nd May 1933. The Judge in his judgment held that-

"With the knowledge that the appellant considered that he could morally resort to force, it is impossible to put an innocent interpretation on his actions and to hold that he was engaged between the years 1921 and 1929 in peaceful, legitimate political propaganda".

A further appeal to the Privy Council was available. But Sir Strafford Cripps opined that it would be difficult to get any relief in the Privy Council. Cripps said an unfavourable verdict of the Privy Council would not only cause harm in the case but will also set an adverse precedent in England. It was unfortunately a tame opinion unworthy of a British Barrister. Roy was however of the opinion that so far as India was concerned, adverse decision could hardly alter the situation whereas a favourable one would be advantageous. In his opinion, "the extension of the possible evil to the British is a remote possibility, too remote to counterbalance the immediate advantages of a possible verdict". Papers were handed over to other lawyers. Ultimately the papers, including the certified copy of the High Court judgment were lost and no appeal was filed. Six years' imprisonment became permanent. Thus was closed the chapter which had started with the arrest and trial of Dange and others.

Jawaharlal Nehru has said in his Autobiography,

"I was attracted to him because of his remarkable intellectual capacity. I was attracted to him because he seemed such a lonely

figure, deserted by everybody. The British Government was naturally after him; nationalist India was not interested in him; and those who were called communists in India, condemned him as a traitor to the cause."

Roy was not allowed to read the written statement (referred to earlier). Nor was it taken on record. It was smuggled out of India and was published in Pondicherry, under the title of "My Defence". It is a document of great erudition exposing the evils of British imperialism. For reasons of space it cannot even be summarised here but fortunately is included in vol. III of *Select Writings of M.N.Roy* edited by Prof. Sib Narain Ray. I would strongly urge every one to read the same. It will be great edification.

“

The Bhagavad- Gita

It is expressly mentioned in the Gita that it is an attribute of Brahmins to believe in God, not of the other three classes. Apparently others can be atheists without any harm! At any rate, it is easy to see that it would pay them to become atheists rather than belong to a religion which deliberately gives them an inferior status. And the same may be said about women, who are also put down as inferior. Will women, Vaishyas and Shudras take a lesson? Only education can bring them to see through all this impositions.

- R D Karve

Reason 1 Jan 1939

”

Mutiny or War of Independence

On 29th of March, 1857, Mangal Pande called upon his fellow sepoys to rise up and he himself shot and wounded two officers; he was promptly tried and hanged. Mangal Pande was not alive in May 1957 and yet Amir Khan could make a hero of him in the film “The Rising”. The incident of Pande took place in Barrackpore in Bengal and yet nobody claims the Indian people rose in revolt against the British in Bengal. It was actually the sepoys in Meerut who headed the revolt.

William Dalrymple's book “The Last Moghal” is an admirable book of details of the time but, unfortunately, fails to sustain the interest of the readers. Bahadur Shah Zafar was a direct descent of Timur and, alas, last of the rulers of Delhi. He came to the throne at 65 years of age and was in no condition to impress the country with any degree of imperial power. The British had won the Punjab war and the Sikhs had become mostly soldiers in the army. Zafar himself, despite his 17 wives, was on pension from the British. He had no power to tax nor to make laws. This was done by the British.

Yet, Delhi, which was mostly Shahjehanpur, was an interesting place. There was no Lulyen's Delhi. Only area around Jumma Masjid and Chandni Chowk were known to the public. Yamuna River, of course, flowed by Delhi and Brahmin women took their baths early in the morning in the holy river. The city abounded in the number of people. Ghalib is famous as an inhabitant of Delhi and composed innumerable poems. He lived on the pension given by the King and he lived beyond the mutiny.

It all started in Meerut. Despite what V.D. Savarkar wrote, it was not a war of independence. As Dalrymple's book, which is not unsympathetic to Indians, shows, the uprising started in Meerut not as a movement of independence. It was the result of grave apprehension of the sepoy that Christian officers were spoiling them. The ban against Evangelicals had been lifted and they were free to recruit converts to Christianity. The rulers were Christians, though not well liked by the ruled.

The British moved freely among the populace. Many of them married Indians and had children from them. Number of officers had concubines a fact not disliked by the locals. In the camp, as the author says, the officers hobnobbed with the Indian officers and raped their (unmarried) sisters. The picture of order under British rule always given seems to have been exaggerated.

In such atmosphere, the British did not expect any trouble least of all in May which is the hot season in the North. The new Brown Bess muskets unlike their predecessors, had smooth grooves and more accurate. But in order to load and to get the bullet down, quantities of grease had to be applied. Both Hindu and Muslim soldiers disliked this. The British were both pork eaters and beef eaters. For the Hindus, beef was almost sacred and pork a taboo to the Muslims. The grease, whether of beef or of pork, was a forbidden item to Indians. Suspecting that the British were secretly spoiling their religious sensibilities, the sepoy refused to obey the officers. To make matters worse and the situation even more combustible, the army was already on the verge of mutiny over quite a few and separate issues of pay and allowances.

Issues were common to Hindus and Muslims alike. But the rebellion took place elsewhere. Maybe in Meerut there were, among the locals, effective leaders or that Meerut was nearer to Delhi the seat of power, mutiny first took place in Meerut.

Sepoy from that town invaded Delhi. It is surprising that Dalrymple does not give any details of the rising elsewhere. The

sepoys invading Delhi started looting shops and houses, irrespective of whether they belonged to Hindus or Muslims. It is here in the book the scholarship of Dalrymple is visible. His knowledge of old Delhi is remarkable. It is as though he and the mutineers knew every lane and by-lane of Delhi. In the book itself only the events in Delhi are described.

Zafar was distressed by the uprising. He was convinced that it must fail in a couple of months. He, with the limited resources, tried to put it down but could not succeed. The book under review does not disclose that the mutineers had any leaders perhaps they had none. In the absence of any leader, it was impossible to stop or help the mutiny. Zafar knew that the mutiny would fail and in that case he will pay a very heavy price, his life, at least his pension. But ultimately without realizing the consequences, he blessed the uprising and the British were aware of it. It is a pity that Dalrymple has not given the details of Zafar's trial that took place after the uprising was down in September.

Late Dr. B.R. Agarwal, a lawyer from Delhi, has written a book on the trials of freedom. In this he has shown how cowardly Zafar, who was hiding in Humayun's tomb, behaved. Not only did he disown any role in the uprising; he wept and begged for mercy at the hands of his British prosecutors. That was of no avail. Ultimately he was convicted and banished to Burma with only two wives.

He died in 1862 and has been buried in some unknown place kept unknown. But India honoured him by naming the longest road on Delhi as Bahadur Shah Zafar Marg.

The story of the mutiny has long remained untapped by even Indians. There is huge material in official record as well as in Nehru Museum. The Scot, Dalrymple, has unearthed lot of material and given the details of the mutiny. The defects of the book are that it is mostly confined to Delhi and Hindu participants' names are ignored. Otherwise, it is a great work.

The Last Mughal: The Fall of Dynasty, *William dalrymple*, Penguin Book



Shias and Sunnis: the Great Divide

In the history of mankind, many schisms have taken place. Most of them were territorial; many were ethnic. All these have been forgotten subsequently. They were often regarded as scams. Now they are mostly in memory. Even Balkanization, which took place after WWII got readjusted, partly by force, partly by armed intervention and partly by historic necessity.

When the Soviet empire broke into its 14 constituents all the parties willingly accepted the break-up. Only Chesnia is giving/having trouble depending how you look at it. Putin insists that it is part of Russia and does not want it to go away. Chesnia wants to be separate, partly because it is wholly Muslim. In due course, however it is expected that it will work out, though Chesnia has indulged in terrorism. Some day Chesnia will be indistinguishable from Russia or it may spin away into a new republic.

The schism I am talking is one that took place 1400 years ago (Muhammad died in 632 A.D.) It was not territorial, it was not ethnic. The schism that took place was actually not expected. The actors in the split were all ethnically, racially, even religiously one people.

The split took place after Muhammad's death in 632 A.D. Muhammad had not nominated any successor. He was God's Paigambar. Obviously no one could take his place because God was not going to speak to another. In Quran, Sura 33 (40) specifically says that Muhammad is the seal of prophets. There cannot be any prophets after him.

In Madina, where Muhammad died, people refused to accept that Muhammad had died. It was the wise counsel that Abu Bakar made them believe that the prophet is no more. An assembly of Mussalmans elected Abu Bakar as Caliph. Caliph was the representative of God; as such a personage was felt to be necessary. Abu Bakar's daughter, Ayesha, had been married to the prophet when she was eight years old, but she survived her husband by several years. Abu Bakar was a kind man by the standards of his time. Under him, entire Arabia became Islamic.

Incidentally, Muhammad had ten wives and a concubine, Marie, a Coptic woman. Sura 33, Verse 4 commands a Mussalman not to marry more than four wives. However the rule did not apply to Muhammad, inferentially he could take any number of wives. (All references to Quran are to the edition of Yusuf Ali)

Umar became the Caliph after Abu Bakar. He was, however, killed when in prayer. This was in the year 644. By election Ottoman became the next Caliph, but he was assassinated in 656 A.D. At last Ali, son-in-law of Mohammad (Fatima's husband) became the Caliph. Ayesha was bitter against him and she waged a war against him. But she was squarely defeated and was conducted safely to Medina where she resided. The war is incidentally known as Camel's War because Ayesha rode on a camel to the war. Ayesha is a hated figure by Shias who never name their daughters after Ayesha.

Those who favoured Ali are called Shias. They believe that Muhammad had nominated Ali as the Caliph and that other caliphs were usurpers. Shias also believe that Ali had contributed certain verses to the Quran - a fact which was scandalous to the Sunnis. Quran was dictated by God who spoke only to Muhammad and who would not speak to all and sundry. Sunnis took things as they were.

The role of Ayesha is important in the history of Islam. She was intelligent, sprightly and probably literate. She was the favourite wife of Muhammad. She was responsible for many of Muhamad's sayings and doings mentioned in Hadith who often consulted her.

She was also responsible for the rule regarding evidence about adultery in Islam. That is a long story to be told on another occasion. She is responsible for the great divide about which we are talking today.

Shias do not want to underrate the contribution of Ali to Quran. They firmly believe that Muhammad had intended Ali to be the first Caliph. Shias do not accept the first three Caliphs at all. Even Ali is not, according to them, a Caliph at all but an Imam. Those who accepted the first four Caliphs are Sunnis. The first four Caliphs are Rashidu Caliphs (guided).

This is only the beginning of the story of schism among Moslems. Today Sunnis are predominant. The entire Arab world (except Bahrain) is Sunni. Almost all Muslims in Africa are Sunnis. In the east Malaysia and Indonesia are Sunnis. In India 85% of Muslims are Sunnis. Iran is wholly Shia. In Iraq, 65% of the Muslims are Shias though the country is ruled by a Sunni who belonged to Bathist party (communists) and did not believe in any religion. In later years he - Saddam Hussein - became a believer of Sunni. Part of the explanation for the decade - old war between Iran and Iraq in the 1980's was that a Sunni was the head of Iraq. Even today activities of Shias in Iraq are financed by Iranians.

Going back to history, one should note that part of the middle East was ruled by Muawiyya who was related to Muhammad. They belonged to the same tribe, though not to the same clan. In those days it was a tribal society. Ties of tribalism were very strong. Muawiyya laid claim to Caliphite, accusing Ali of not punishing the assassins of Ottoman. Discontent was growing and in 665 A.D. Ali was assassinated by Kharejite (Muslim fanatic). Thus we see that out of the first four Caliphs (Rashidu), three were assassinated. The assassination of Ali caused profound sensation. Three Caliphs were murdered. There remained no male descendent of Muhammad. In a judgment dated 12th Nov 1966, Mr. Justice Arnold of Bombay High Court has suggested "Ali was and deserved to be deeply loved, being

clearly and beyond comparison the most heroic of that time fertile in hero's..."

National Geographic magazine mentions that Ali's body was tied to the tail of camel and at the place where it stopped he was buried. A big mosque was erected at that place. It is at Najaf, in Iraq of today.

Ali left behind him two sons, Hasan and Hussein. The elder of the two was saintly and recluse. He abdicated his right in favour of Muawiyya in exchange for a large amount of revenue and retired to Mecca. He died due to poisoning by one of his wives allegedly bribed by Sunnis.

Eleven years later, Hussein woke up and yielded to the temptation to become the Imam of Muslims. The people of Cufa (now in Iraq) promised to give support to him. Omayid of the clan of Muawiyya met him with a large army. Hussein himself was accompanied by his wife, two children and about 25 horsemen. In warlike situation an arrow pierced Hussein who died with one son with him. The son also was killed and his head was paraded throughout Cufa.

This inhuman and heartless act stirred the heart of Islam. Even now after 1300 years, the Muslim community stands divided worldwide into two communities. Both the communities believe in one God; both believe in Muhammad as the last prophet. But the hatred between the two communities is deep and permanent. Hussein was killed on the 10th day of Moharram (it was 9th October 680 A.D.) The day is observed by Shias as a day of tears, sorrow and beating of breasts. Devout Shias distribute dates which were denied to Hussein. There is superb Masjid in honour of Hussein at Karbala in the then Mesopotamia (now in Iraq). Though Muslims are not superstitious and Islam does not believe in superstition, the sacred dust of Karbala is made into moulds and kissed by Shias.

The following passage by Mr. Justice Arnold brings out vividly the differences between Sunnis and Shias:

The Sunni preys five times a day; the Shia only three times. The Sunni with

his arms folded across his breast; the Shia with his arms held straight down by the side; the Shia venerates Ali and Fatima as something more than mortal and execrates the memory of Abu Bakar, Omar and Osman; the Sunni pays sincere reverence to those three Caliphs and introduces their names into the Khutaba (or Friday prayer) and into the dedicated inscriptions of his mosque; the Sunni in India at least celebrates the Moharam with ribald buffoonery; the Shia with heartfelt lamentations.

Proceeding further Mr. Justice Arnold says that Sunnis and Shias agree in little else, hating each other with the most cordial (?) and bitter hatred. The quarrel between Ayesha and Fatima is undying in Islam which is still divided by the fierce enmities of the respective participants and partisans of the wife and the only daughter of the apostle who spurred hatred.



Caliphate or Pan-Islam

Muhammad said and proclaimed that God spoke to him through Gabriel. According to him, the entire Quran was revealed to him through Gabriel. God dictated the Quran. After him, whatever Muhammad had said and behaved were collected. They are called Hadith. Quran is of much higher status than Hadith, which is also accepted and revered by Mussalmans. There is a proverb in Persian, which says:

Ba Khuda basha

Ba Muhammad hushar

Translated it means you can abuse God as much as you like but beware when you speak of Muhammad. Mussalmans respect Muhammad in a very high manner almost like God.

Quran was revealed to Muhammad as stated earlier. It was God's word. Nothing given by God can be altered or changed. Quran is law. Once, when Muhammad was asked whether he could perform a miracle to prove his prophethood, he replied that the Universe was a miracle, Allah was its creator, and men need not search for another miracle. (Surra II, Verse 164; Surra III, Versa 190.) (All references to Quran are to the edition of Yusuf Ali which is accepted by all Sunnis. You may also fruitfully refer to the edition of Muhammad Ali which is not accepted by all Mussalmans but which has a better translation).

Sovereignty of the world belongs to Allah who created it. You cannot appropriate a part of it and call yourself a King. No one can be a King who is a monarch of a territory. Muslims are not divided by territory;

they are distinguished from others by Islam. Muslims do not belong to State which is naturally a territory. They belong to Umma which transcends all territories.

This is what in fact Sir Muhammad Iqbal, mistakenly thought to be the father of idea of Pakistan, reminded the Muslims. That is why the Quran says that Muhammad is the prophet of all mankind, and not of nations. Ultimately, the peoples of all the world are one and will be one. Islam is the religion of the world and not of particular people or of particular nations. That is the vision of Quran. A genuinely convinced Muslim shares this vision and that is why the violence that they have unleashed upon the world is looked upon by them as holy and not as terrorism.

Kingship involves inheritance, despite what Aurangaseb did. But it is inconsistent with Islam. Muhammad Ali, Ahmedia of Lahore School, has quoted chapter and verse from Quran and Hadith to show that hereditary kingship is foreign to Islam. Unlike James I of England, there is no person born as King. (The Religion of Islam by Maulana Muhammad Ali). According to Muhammad Ali, Islam is a democratic religion and Muslims are guided and ruled by an elected person who is called the caliph and the rule by the caliph is Khilafat.

That brings me to Khilafat. As has already been mentioned, the caliph is to be elected. Caliph means the representative of Allah as reflected in his election. He is elected sometimes by the entire Umma. Sometimes, he is elected by a few. Still it is called democracy of some sort. But people obeyed him. He led them; he lived a common life with them. He shared their life and tribulation. He did not only give orders he led them from the front. He was a man of confidence and trust. How many were there with these qualities? The first four caliphs were called Rashiddin caliphs noble caliphs whose names are recited in the lecture Khuthba on Fridays in the mosques. There is one exception. Shias recited the name of Ali only as they do not recognise the other caliphs.

Shias strongly believed that Muhammad had designated Ali, his son-

in-law, as a caliph. It is indeed believed that Ali has suggested certain stanzas to be inserted in the Quran which was done. Sunnis refuse to accept that Quran was anything but what Allah had commanded Muhammad. That is how the great schism occurred. Shias partisans of Ali and Sunnis accepted what was practical. Today in the world there are 15% Shias and 85% Sunnis. That explains the repeated attacks on Shias as non-Muslims; Zia-ul-Haq at one time feared that Shias will be declared as non-Muslims. He wanted the votes of Ulemas and declared that wearing sarees was un-Islamic. Fortunately this edict was later not followed.

Neither Muhammad nor Abu Bakar, the father of Ayesha and father-in-law of Muhammad, was important. The word of God was carried through his representative now called caliph. Anticipating a little, one must remember that Muhammad being a human and must pass away, but as Quran says, there cannot be anyone except Muhammad who can be the voice of God. Therefore there must be an Amir a noble person who will correctly and legitimately carry the voice of God which was in the Quran. Of course, sayings, apart from Quran, were also important. His actions and conduct were also important. His actions and sayings were collected by his companions and clubbed together as Hadith. Quran and Hadith were to be said and pronounced by the right person who was called caliph the representative of God. He must in short be a noble person.

It has been mentioned that when Muhammad was absent, Abu Bakar was asked to lead the namaz. Muhammad, till his death, had not named anyone as his successor. Before he died, however, he named Abu Bakar, almost unanimously, as his successor. Only Ali, Muhammed's son-in-law, sulked. But the population accepted Abu Bakar. Initially the populace refused to accept that Muhammad was dead. It insisted that Muhammad was immortal. In the famous speech delivered after the death of Muhammad, Abu Bakar reminded his listeners that Muhammad was not God. He was a human being and like human beings he was mortal. His ideas were eternal. What he said came from God. So people should remember

them.

Under Abu Bakar, Islam conquered parts of the world. Entire Arabia came under Islam. Abu Bakar who lived upto 624 AD was a compassionate man. His order to the troops was that they must be merciful. They should not slay old men, women or children. Under him the choice given to the enemy was not Islam or sword. It was rather Islam, tribute or sword. It must be remembered that originally, at any cost, the caliphs did not follow the policy of spread of Islam. Omar was an exception. He had good generals; though some of them were cruel.

Abu Bakar died in 624. Omar was, in the words of Will Durant, a man of hot temper, cold logic and of sound judgment. He was the next caliph duly elected. He genuinely believed that Islam should be spread and that was the command of Quran and Muhammad. But as Maulana Muhammad Ali said, neither Quran nor Hadith required jihad to spread Islam. Omar wrongly believed that the Holy Prophet had commanded him to fight people until they actually accepted Islam that is they accepted that Allah is the only God and Muhammad was his prophet.

It is at this point that one story about Omar must be disposed. Did he order that all books in Alexandria library should be burnt. When Commander Amir Ibn Al-As reached Alexandria, he was beset with the question whether Alexandria library should be allowed to remain or be destroyed. The reply traditionally is: "If those writings of the Greeks agree with the Book of God (i.e. Quran), they are useless and need not be preserved; if they disagree, they are pernicious and should be destroyed". (Durant, Op. cit. p.282). Against this story, it should be noted that

- (1) Large part of the library had been destroyed by Christian Order in 392 B.C.;
- (2) The remainder had suffered such hostility and neglect that most of the collection had disappeared by 642;
- (3) That between 500 years that it had happened and the first

Christian report of it, no other person has reported it.

Will Durant says that the story is now rejected as fable. Sir Edward Gibbon agrees with Durant.

This is not the place to give details of caliphate. It is sufficient to note that under Omar, with Amir as General, Islam spread rapidly and occupied Egypt and Tunisia. Later, in the year 644, Omar was struck down by a slave while he was in prayer. Abu Bakar was the first Caliph to die natural death. As we will see later, two successors of Omar also died violent deaths.

The dying caliph Omar wanted Abd-er-Rehman to be the next caliph but he declined. Omar then appointed a Committee of six to select the next caliph. They named, as Durant points out, the weakest person, Ottoman, as the next caliph. Ottoman was a good man and devoted to Islam. He built several mosques and beautified several.

It must be remembered that society was a tribal society. There was Quresh aristocracy versus Ansaris from Medina. Then there was Umayyad clan led by Muvayya, son of Muhammad's chief enemy, Abu Sufian, though he was now Governor of Syria. Abu Sufian had become Muslim by this time. Somehow or other, Ali was raised to caliphate by Hashemites. Muhammad belonged to Hashemite tribe. It was the contention of Hashemite tribe that only one from their tribe, the tribe of Muhammad, could be the caliph.

In the unsettled conditions, it was difficult to pinpoint who was the caliph. Ottoman was killed by an Egyptian Moslem. Now, as already pointed out, Ali became the caliph thanks to Hashemites. Ayesha, the young widow of Muhammad, could never get reconciled to this. She tried to dislodge Ali by mounting a war. This war is known as a war of Camel, because Ayesha fought the war on the back of camel she was utterly defeated and safely conducted to Medina.

But Umayyad, though from the same tribe but from a different clan, was not happy about this. In particular, they accused Ali of not properly pursuing the killers of Ottoman the third caliph. Some sort

of arbitration was held in which Ali was defeated. Ali was killed by a Khajorite.

Abu Bakar	-	died peacefully
Omar	-	killed by a slave
Ottoman	-	killed by an Egyptian
Ali	-	killed by Khajorite.

Thus, three of the four Rashiddin caliphs met violent deaths. Thereafter Khilafat became, like kingdom, hereditary and successors of ten succeeded by bloodshed.

The caliphate passed into the hands of Umayyad who, as history shows, banished Hasan to Medina and killed the entire family of Hasan at Karbala which became a holy place.

Mosque was built where Ali had fallen and mosque was erected where Husen died. In Iraq at present Shias are 65% and the whole of Iran is Shia. Though Shias are in the whole world only 15%, they are rich and educated. The twists and turns of Islam are difficult to summarize adequately and accurately. One thing is certain. The great divide between Sunnis and Shias had taken place. Shias themselves are divided into different sects. Every Imam regarded himself as God and after him successive Imams also did so. One sect regarded that this succession stopped with the seventh Imam who is supposed to be hiding and will emerge in due course. Those people are called Seveners. Another sect called Twelvers believed that Twelfth Imam would be the last.

At this stage it should be mentioned that Caliphs and Imams are different. A caliph is elected as the representative of God while Imam is born with divinity in him. Therefore, Shias never regard Caliphs as the representatives of God. On every Friday in every mosque the Imam in charge praises the exploits and qualities of Rashidun Caliphs i.e. the first four caliphs. But Shias in the Shia mosque praise only Ali, the son-in-law of Muhammad. Both, Shias and Sunnis, are Muslims. Both believe in the same, one God. Both

regard Muhammad as paigamber and as the last prophet. Yet there is much enmity between the two. They are in fact two religions though persons belonging to both these communities are called Muslims. Readers will not forget the decade long war between Iran and Iraq between 1979 and 1989. That was purely on the ground that the then ruler of Iraq was a Sunni.

That Umayyad became the caliph after killing Hussen has already been mentioned. In due course, Khilafat passed on to Abbasids, a line of Hashemite tribe. The most famous of Abbasid caliph was Haroon, also called Haron-al-Rashid. The famous Thousand and One Nights took place during Haroon's regime. The Abbasids ruled from Baghdad. The Abbasid caliphate lasted from 750 to 1058. To Haroon goes the credit of building a beautiful Baghdad. Even today Baghdad can boast of beautiful and big buildings. Though water was not plentiful, Baghdad was surrounded by two mighty rivers. That part of Iraq in which Baghdad is situated can be legitimately called doab, like the Gangetic plain in India.

Haroon was fond of good food, good women and good music. He was also, unfortunately, cruel. His sister, an Arab, fell in love with Jafar, a Persian. This was unpalatable to Haroon. The caliph, however, permitted them to marry. The bride even before marriage bore two sons. This infuriated Haroon who ordered his own sister to be executed.

Back to Khilafat, it should be mentioned that though originally a caliph was elected or selected, caliphate went to the strong. Though generally Abbasid caliphs did noble things, gradually Abbasid caliphate declined. For some time Seljuks overpowered the caliphs though they were allowed to retain their religious role. In the meantime, caliphate went to Egypt from where it passed on to Ottoman Empire of Turkey. From Arabs' point of view, the head of the most powerful Muslim nation became the caliph. The Arabs were unhappy because a non-Arab became a caliph worse a non-Arab remained a caliph till Khilafat was abolished.

Kemal Pasha was a practical man. Ottoman Empire has been defeated in World War I. Iraq became a mandated territory; Palestine became a protectorate; there was nothing over which Turkey or Kemal Pasha could rule as an empire. Moreover, Kemal Pasha was a nationalist. He had no sympathy for Muslims or Islam. He was aware that Indian Muslims had collected money and material for Khilafat. There was a Khilafat movement in India led by Mohmed Ali and Shaukat Ali. Much to the chagrin of Indians, Mahatma Gandhi supported the movement. It had limited national support.

In the meantime, Caliphate was abolished. The abolition was done two years after the abolition of Sultanate. Indian Muslims begged Khilafat to be retained. They even suggested that Kemal Pasha should be caliph which did not interest him. The Rt. Hon'ble Amir Ali and the then Aga Khan sent personal letters to Kemal Pasha who did not take note of them. Amir Ali and Aga Khan were both Shias and it is not clear why they were interested in Caliphate.

Caliphate was a symbol of unity of Muslims. Different Muslims ruled in their own ways; they never consulted caliph. It is said that whenever a new King came into power, the caliph sent his best wishes and probably some advice that was the consultation. Though originally from the days of Abu Bakar caliph was regarded as the representative of God upon earth and administered the Islamic realm as per Quran and Hadith. After Umayyad, caliphate was forgotten. When Ottoman Empire became the seat of caliphate power, as the Ottomans were the largest Muslims, though not Arab caliphate was administered. Though Muslims were united in caliphate, there was no unity among them.

That is how in 18th and 19th Centuries caliphate was replaced by the concept of Islamic unity or Pan-Islam. Pan-Islam in effect is a concept, a notion having practically no value. The idea of Islamic unity was propounded from many Islamic countries. It was all from individuals. In India at that time, apart from Mohammad Ali Jinnah, there was no outstanding Muslim. Even Dr. Mohammad Iqbal, the

great poet and scholar, wielded little influence upon the masses. Jinnah, though he became the builder of Pakistan later, was not interested in the Islamic cause.

As a result the Muslims were organised, small and big, in different countries. Muslim League of India was one such. But it was not interested in Pan-Islam. Dr. Iqbal at one stage had advised the League that Pakistan, a land of Muslims, was alien to Islamic culture. Pakistan became the programme of the League. Pan-Islam never took root in India.

There was one colourful Muslim at that time who strongly advocated Pan-Islam. He was Al-Afgani. He was born in Shia Afghanistan and it disturbed him that Muslims were divided between Shias and Sunnis. He made brave attempts to bring the two together. He wrote again and again that their differences were a matter of past relevance and that a modus vivendi between them could and indeed should be found. It was never possible.

The idea of Islamic unity did not die. The Arab countries propounded it. Organisation of Islam Countries (OIC) was born but it has done very little work. Recently, a rich Arab, Osama Bin Laden, has taken up the cause of Islamic unity and founded an organisation called Al Qaida. Readers are aware of the terrorism it has involved in. Far from bringing about Islamic unity, it has alienated the rest of humanity from Islam. Majority of Islamic countries are opposed to the type of terrorism Osama is indulging in.

Khilafat came to an end in 1925 when it was abolished by Kemal Pasha now called Kamal Ata Turk (Father of Turks). Turks in general and Turkish Army in particular are totally secular. The Constitution is secular. Turkey is trying to become a member of European Union. Naturally Khilafat came to be abolished there. Moreover, Turkey is not the largest nor the strongest Muslim country.

Pan-Islam has not found a leader or organisation. Apart from Osama, the world faces no danger or design from Islam.



Tolerance and United Nations

More than a year ago, Kofi Annan had appointed a Committee of 20 eminent people from different fields. Their task was to explore ways of addressing the increasing polarization between Muslim and Western countries. Please remember, the polarization referred to was between Muslim and Western countries and not between Muslim and Christian countries.

The reason was partly at least there are no Christian countries but there are Muslim countries. Many nations established as ordinary countries became Muslim nations as a result of conversion. Pakistan is the only country which was established as the Muslim State in the world and it remains so till today. Islamic Republic of Pakistan is the Constitution of Pakistan.

Though initially, at the time of Mujeeb-ur Rehman, Bangla Desh was a secular State, later the country has been proclaimed an Islamic State. Whether a non-Muslim can ever become the head of the State is a doubtful point.

Till past year, Nepal was a Hindu Kingdom. There was only one Hindu Kingdom. In 2006 AD, due to mass upheaval, it has been declared a Secular Kingdom. How far it will be so is a questionable point.

Toward the South we have Sri Lanka, an avowedly Buddhist State. Except the Tamilians in the north, all in Sri Lanka are Buddhists,

some of them even carrying arms. Buddhism in Sri Lanka is peculiar.

There is a group of Islamic islands called Lakshadeep to the south of India. Its population is hardly one million and pretends to be a State. Ninety per cent of the population is Hanfi Muslim. The State is divided into hundreds of islands which are a great tourist attraction. It is an Islamic State.

India, in theory and practice, is a secular State. All the provisions of the Constitution are meant for realizing the secular laws and State of the country. So much so that any law inconsistent with secularism is declared null and void by the Courts. India is surrounded by theocratic States (Pakistan, Bangla Desh - Islamic, Nepal - Hindu, Sri Lanka - Buddhist, Maldives Islands - Muslim) and thus faces a challenge of practising secularism effectively. India can, for example, confront any Muslim country in any international hostilities. That is a clever way Dr. Man Mohan Singh can think of isolating Musharaf from other Muslim countries. In spite of Organisation of Islamic Countries, Muslim countries are not united. So are the Arab countries of Arab League. And therein lies the safety of the country. You look at the Muslim countries. In spite of 50 years and bigger populations, Arab countries have not been able to throw out the Israelis. On the other hand, Israelis were allowed to establish camps on the western bank resulting in expansion of Israel.

All this was not covered by Kofi Annan's resolution. But peace depending on tolerance upon the different countries was a major task before them.

Countries are of different levels of culture, politics and civilizations. Yet, tolerance among them was possible. It has been suggested that these differences have been driving for among the nations. The bridges are to be built; friendships are to be forged. In all this, there is always a common thread. Each party understands or tries to understand other side's point of view. That is toleration.

Turkey is predominantly a Muslim country. After the abolition of

Sultanate and caliphate by Kemal Pasha, Turkey is essentially a secular country. For some economic and other reasons Turkey wants to become a member of European Union. For this reason it abolished the death sentence. It has been its institutions and programmes to suit European countries.

Being a wholly (almost) Muslim country, the other Muslim countries should not resent this attitude of Turkey. Other Muslim countries can comfortably live with Turkey. There is nothing in Turkey's membership of European Union which is inconsistent or debilitating to other Muslim countries.

This is tolerance.

Some regard at present different civilizations in the world as an expression of tolerance on the part of the countries of all continents Asia, Africa, Europe, America, etc.

Kofi Annan has pointed out one interesting fact. Bosphorous currents are notoriously strong, flowing one way on the surface, opposite way underneath the two continents Europe and Asia. As one should see that Bosphorous currents are closely connecting rather than safely separating the two continents. Similarly same things could be said of Straits of Gibraltar, Suez Canal, etc. We are unnecessarily bothered about geography. In these days of globalization and European Union, geography must least count.

In recent times, a rich Arab Muslim has come into prominence. He has established a foundation called Al-Qaida, meaning The Law. The law is that the entire world must be Islamic. The bombing of the World Trade Centres and the serial bombings of Bombay trains are attributable to Osama's inspiration.


It is not necessary for us to give a judgment. It is true that Quran says Muhammad is the last prophet and Islam is the world religion. But it was 1500 years ago. It cannot be quoted today. Even Muslim countries are not united, let alone the whole world. Today in the world, there is no stronger country than the United States. See

Afghanistan and Iraq. No Muslim country has protested against the U.S. The largest Empire, the Ottoman Empire, next only to the British, was reduced by allied powers to one country.

Today Muslims live in Western countries. It is estimated that 30% of the people converted to Islam are Europeans. The faithful are thus living in different countries. There are certain problems, for example, in France. But these small problems are likely to vanish. Muslims can practice their faith wherever they are. Christians can do similarly. It is the **faith** and not the **faithful** that will decide the unity of the world. Addressing the conclusive meeting of the 20 persons appointed by him, Kofi Annan said:

"Migration, integration, and technology have different races, cultures, and ethnicities bring closer together, breaking down old barriers and creating new realities."

The days of Osama and Saddam Hussain are over. The old Indian saying from Mahabharat is truer today than ever before: "*Vasudhaiva Kutumbakam*".



Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) was adopted by the Geneva Assembly of the United Nations 10th December, 1948 and so, on 10th December, 2008, it completes 60 years. There were no trumpets blown nor flags waved on the occasion. The day then passed almost unnoticed. It was in a sense a tame affair.

The world organization itself was in those days in its infancy. Originally it was thought that U.N. Charter itself should contain all the provisions of UDHR. The San Francisco Conference, which was held to draft the U.N. Charter, was given a proposal to incorporate the “Essential Rights of Man”. The proposal was not pursued because such a document required more discussion than was possible at that time. The U.N. Charter undoubtedly speaks “promotion of and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion”. The idea of propounding a bill of rights was considered by many as implicit in the Charter, but it was obviously thought that human rights required more thoughtful discussion.

The Economic and Social Council (ECOSOC), also envisaged under the United Nations, was asked to establish a Commission for the promotion of human rights as mentioned in Article 68 of the U.N. Charter. In response to this request, ECOSOC established the Human Rights Commission in 1946. The very first session of the U.N. General Assembly, held in 1946 considered a draft Declaration

of Human Rights and Freedoms and sent it to ECOSOC for reference to the proposed Commission on Human Rights in preparation of a document for the international bill of human rights. A preliminary draft was prepared and later it was taken over by a formal drafting committee consisting of members of the Commission from eight States.

Overcoming differences of the members of the Committee, the Committee ultimately prepared two documents. The one declared general principles defining human rights; the second document was in the form of convention containing human rights and their limitations. These were transmitted to the Commission which decided, late in 1947, to prepare "International Bill of Rights". Only one draft was later prepared, taking note of the comments of various governments. The Commission did not have time to consider a covenant or the question of implementation. The declaration which was prepared was submitted as it was, to the General Assembly through ECOSOC. The General Assembly, meeting in Paris, adopted what has now come to be known as Universal Declaration of Human Rights.

This was on 10th December, 1948. It was adopted by the votes of 48 States with none voting against. However, there were eight abstentions. Compared to the 192 countries which are members of the U.N. today, the number who voted in favour of "Universal" Declaration was very small, indeed. While considering this aspect it must be remembered that the number of independent countries which had become members of the United Nations by 1948 was very small as compared to today. This was partly because large number of countries were colonies; another number of countries (like India and Pakistan) had just become independent and were setting their houses in order. Even then the then President of the U.N. General Assembly pointed out that the adoption of the declaration was a remarkable achievement. He described it as a step forward in the great evolutionary process. No doubt, it was the first time, in the history of the world, that an organized community had made a

Declaration of Human Rights and Freedoms. Please, however, it should be remembered that it was a declaration, not a treaty or covenant. No doubt, subsequently large number of countries have paid obeisance to it; no doubt, people all over the world turn and have turned to it for help, guidance and inspiration. No country or individual has expressed dissent.

UDHR is not to be regarded as common denominator. On the contrary, it proclaims a common standard of achievement and aspirations. The progressive and innovative tone of the Declaration is evident in many of its Articles. The countries which abstained from voting were the countries of the then Communist block, for obvious reason. Human Rights were anathema to Communist countries. Cold war had already set in.

Subsequent to 1948, Human Rights have not remained static. The horizon of Human Rights has kept expanding. It may be briefly mentioned that apart from political, social and economic rights, the Courts in several democratic countries have developed what can be regarded as environmental rights. Good and healthy environment is held to be necessary not for a particular individual but for the whole society of which that particular individual, along with others, is a part. Subsequent to 1948, also, several treaties and covenants have come into existence and they have all taken UDHR into account. The rights in these treaties and covenants bear a marked relationship with UDHR.

The UDHR consists of a preamble and 30 Articles. It is a compact doctrine. It sets forth rights and freedoms to which all men and women, all over the world, are entitled to without discrimination on any ground. The Declaration is universal in the sense that the rights finding place therein are the rights of all human beings. They are rights of Indians as well as Britons. They are rights of Africans as well as Asiatics. No race or country is unfit for the rights as some political commentators have opined.

Article 1 lays down the philosophy on which the Declaration is

based. It says:

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

Implicit in this Article is a basic assumption that (1) the right to equality and liberty is man's birth right and is not alienable; (2) that man being a rational and moral being is different from other creatures and, therefore, is entitled to rights which other creatures cannot legitimately claim.

Article 2 forbids “distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Thus, a Philippian is entitled to rights in the same sense in which an American is entitled.

Article 3 is a sort of cornerstone of the Declaration. It proclaims the right to life, liberty and security of a person a right essential to the enjoyment of other rights. This Article is an introduction to Articles 4 to 21 in which other civil and political rights are set out. Article 22, the second cornerstone of the Declaration, introduces Articles 23 to 27 which deal with social and cultural rights which a member of society should enjoy. The Article characterizes these rights as indispensable for human dignity and free development of human personality.


The concluding Articles 28 to 30 recognize that everyone is entitled to a social and international order in which the freedoms set forth in the Declaration can be enjoyed. They also stress the duties and responsibilities which an individual owes to the society. In particular, Article 30 warns that no State, group or person may claim any right, under the Declaration, “to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms” set forth in the Declaration. In other words, the individual not only has rights but also has duties.

The declaration has become “a common standard of achievement”

for all peoples and all nations. It is a yardstick or benchmark to measure the degree of respect for, and compliance with, international human rights standards. Since 1948, the Declaration rightly continues to be an important and far-reaching of all U.N. declarations. It is a fundamental source of inspiration for national and international efforts to promote and protect human rights. It has set the direction for all subsequent work for U.N. agencies. The basic philosophy of the Declaration pervades the work of U.N.

An international conference was held in Tehran in 1968 which, in its proclamation, agreed that “the Universal Declaration of Human Rights states a common understanding of the peoples of the world concerning the unalienable and inviolable rights of all members of the human family and constitutes an obligation for the members of the international community”. The conference called upon all the peoples and Governments “to dedicate themselves to those principles and redouble their efforts to provide for all human beings a life consistent with freedom and dignity and conducive to physical, mental, social and spiritual welfare.”

Considering the political atmosphere of its time (1948) in the wake of the Second World War, UDHR was a revolutionary document. It must be said to the credit of the statesmen of that age that they thought of human rights which even today sound fresh. The presumption of innocence, education, freedom of movement, marriage by consent, and political asylum are some of the rights mentioned in the UDHR which remains the foundation of several later declarations and covenants.



Criminal Law in India

There is common inadequate understanding or often misunderstanding about criminal law in India. In recent years, the media, especially the electronic media, are broadcasting great information in a summary manner in such a way that it conveys the impression that the police are doing their job but the Judges are not. Especially in T.V. telecasts, the police announce, almost boast, that the accused have made confessions and narco-tests have been conducted which unmistakably indicate that those arrested by the police are the offenders. While it is not possible to give a detailed exposition of criminal law in India, in this small essay, it is necessary to know, in a brief outline, the essential feature of law that governs crimes in India.

There are three major Acts that deal with crimes. The first is Indian Penal Code, passed in 1860, but amended several times later. It lists several acts and omissions which amount to offences. In this sense, Indian Penal Code is a substantive law. In the second place there is the procedural law, that is the law which prescribes the procedure which the police and the courts should follow while dealing with crimes. First enacted in 1898, the Code of Criminal Procedure, 1973 is in operation. It has also been amended.

Indian Evidence Act, 1872, with some minor, later amendments, is in force. It is a beautiful piece of art and it is impossible to improve upon it. While on the one hand it protects and also enables a witness to come out with the truth, parties to the litigation can properly put

forth their cases.

Apart from the offences mentioned in the Indian Penal Code, there are several major and minor offences which are dealt with in several other Acts, but the law of procedure and evidence is substantially the same. It is enough for average citizen to know the procedure in one case generally.

If a person is aggrieved, he may file a complaint in the police station. This is called in popular parlance First Information Report (F.I.R.), though this phrase is not found in any statute. There are two kinds of offences; cognizable and non-cognizable. Cognizable offences are those that cannot be handled by police without any order of the Court. Non-cognizable offences can be investigated by the police if a Court directs. A person has to file his complaint, not in a police station, but in a Court. Cognizable and non-cognizable offences are specified in the Code of Criminal Procedure.

There is another classification, namely, warrant cases and summons cases, also specified in the Code. There is a small difference in the Court procedure. Similarly, there are bailable and non-bailable offences. In the case of non-bailable offence, the Courts alone, if at all, grant bail. More about it later.

There are Magistrates and there are Courts of Sessions. More serious cases are tried by Sessions Courts only on the cases being committed to them by the Courts of Magistrates. A case instituted by the police has first to go to the Court of a Magistrate who, if he finds that it is triable by a Sessions Judge, sends it to a Sessions Court. In order to reduce the burden on Magistrates, the State Government may invest some Government Servants or retired Government servants with power to try petty offences like breach of traffic rules, keeping a shop open on unauthorized days or beyond prescribed rules. Such Honorary Magistrates cannot impose sentence of imprisonment for a period of more than three months.

In every case before a Sessions Court, a charge is to be framed. In a summons case, a charge may not be framed. The prosecution starts

with the examination of witnesses who may be cross-examined by the lawyer on the other side or the other side itself. If the Judge is satisfied that there is a case for conviction, he will ask the accused for an explanation of circumstances appearing against him. The accused may answer orally or may give a written explanation. Two things must be remembered. One, the accused is never on oath. Second, no adverse inference can be drawn against an accused if he does not take an oath. He may, if he so likes, examine himself on oath in which case he may be cross-examined. He may also examine witnesses in defence.

After this the Judge shall give a judgment in which he must give reasons why he prefers one case and not another. The accused, if he is convicted, may appeal to the higher Court. If he is acquitted, the prosecution may appeal. In the latter case, the grounds of appeal have got to be stronger. The presumption of innocence of a person is strengthened by acquittal. This is usually the route which is taken by a prosecution.

There are, however, certain concepts which must be borne in mind in criminal law. In the first place, there is the presumption of innocence. A person is presumed to be innocent until it is proved otherwise. This presumption runs like a golden thread in criminal law. Merely because the police have arrested a person, it does not lead to the conclusion that the person is guilty. A person is tried not on allegation but on proof. In the language of Indian Evidence Act, a fact is said to have been proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, act on the supposition that it exists.

In a criminal case, the prosecution must prove its case beyond reasonable doubt. It must be reasonable doubt, not the doubt of doubting Thomas. The evidence must be carefully weighed. The Judge must not lean on either side.

Benefit of doubt, if any, arises only when one has to consider the

inferences from a particular fact. When on the evidence two possibilities are available, one which goes in favour of the prosecution and the other in favour of the accused, the latter must be preferred. The doubt refers to inferences, not to facts. It is necessary to distinguish facts which may be called primary or basic facts on the one hand and inferences of facts to be drawn from them. In the case of basic facts, the courts must apply the usual test. There is no scope for the application of the doctrine of benefit of doubt.

A case may be proved even by circumstantial evidence in which case the circumstances should be of definite tendency pointing to the guilt of the accused. The chain of circumstances must not be broken.

The burden of proof is always on the prosecution. Only in certain cases the onus shifts to the accused. The accused must prove an exception if he pleads one. In a corruption case, if the prosecution establishes that the accused is in possession of assets disproportionate to the means of the accused known to the prosecution, the accused must prove that it is not so.

It is not necessary that a particular number of witnesses is necessary to prove a fact. Even one witness is enough. Evidence is to be weighed, not counted. The Quranic rule that adultery must be proved by six witnesses has no place in Indian or in any common law criminal jurisprudence.

No person can be compelled to be a witness against himself. That is the Constitutional protection. However, for the purpose of identification of a prisoner, his fingerprints can be obtained and his photograph can be taken.

Often one reads that a person/witness has turned hostile. In the law of evidence, there is no "hostile witness". However, when a witness is not giving evidence in favour of the party calling him, he is, with the permission of the Court, declared hostile. He can then be cross-examined by the party calling him as a witness.

In India, during the course of investigation, the police may record the

statements of persons to be examined by it. But those statements cannot be signed but may be used to contradict a witness when he is examined. There is no presumption that the police have recorded the statements correctly or faithfully. To that extent there is distrust of the police.

This distrust extends. No confession made to the police or when a person is in the custody of the police is admissible in evidence. Often it is seen the police boasting on T.V. that the crime is proved because the accused has confessed. Confessed to whom? Confessed to the police or in the custody of the police. Such confessions are inadmissible. If such confessions are the only material, the accused will be acquitted. Blame the Courts.

However, there is one exception. An accused makes the following statement while in the custody of police: "I have murdered "A" with a knife which I have hidden in the loft". A statement leading to the discovery of a fact can be proved, not confession of guilt. Knife hidden in the loft, if found, can be proved by the statement not confession of his murdering. If the knife from the loft is discovered, it can be assumed, despite the usual methods of the Indian police, that the statement is true. This much concession has been made by the legislature.

Often it happens that the defence challenges that a witness has never seen the accused. In order to obviate such an eventuality, the police arrange what is called an identification parade in the presence of an Executive Magistrate and independent panchas and without the presence of the police. In a line, the person to be identified is mixed with six or seven persons and the witness is called to identify the accused. If he identifies, the witness is good. If he does not, normally he is rejected as unreliable. The idea of placing a suspect in a line up with others is to find out whether the suspect is the perpetrator of the crime.

All oral evidence must be direct. If a fact is said to be seen, it must be deposed to by the person who has seen it; if a fact is heard, it must be

deposed to by the person who has heard. If "A" says that "B" has seen or heard, it will be hearsay.

There are, however, some exceptions. The most important is the one that is called a "dying declaration". It is an exception to the hearsay. It makes admissible the statement of a person who dies, whether by homicide or suicide, provided that the statement relates to death or to the circumstances leading to death of that person. If after making the statement the person does not die, the statement cannot be admitted. The person must appear in the Court and depose. The statement called dying declaration may be recorded by a witness, doctor, or even police officer in unsuspicious circumstances, uninfluenced by outside agency. The assumption is that a dying person tells the truth.

An unusual provision in the present Indian Evidence Act relates to what is called anticipatory bail. It is doubtful whether such a provision exists anywhere else in the world. It has been inserted in the Indian Evidence Act on the recommendation of the Law Commission in view of the peculiar conditions of this country. A person may make a complaint of non-bailable offence against another person who, if arrested, may have to spend a day or two in lock-up. He may be innocent and will be released by the Magistrate. But the stigma of being arrested remains. Therefore, the Parliament has provided that when any person has reason to believe that he may be arrested on accusation that he has committed a non-bailable offence, he may apply, before being arrested, to the High Court or to the Sessions Court to be released on bail, if arrested. This is called anticipatory bail. This provision introduced in 1973 was widely used in the beginning, but not much used today. The Court may pass an order of release by imposing conditions. The Court may cancel the order later if it is satisfied that the person has *prima facie* committed a non-bailable offence.

It must be noted that the Code after 1973 contains several provisions which underline the liberty of a citizen. It was noticed by the Law

Commission that an accused person continues to be in detention because of long investigation. Therefore, now it is provided that if chargesheet is not filed within 90 days in the cases of offences punishable with death or imprisonment of not less than 10 years and within 60 days in other cases, the accused shall be released on bail.

The average citizen should know and understand the concepts and principles explained above. It is not necessary to know the details of trial or prosecution. Broadly speaking, an accused is brought before a Court, witnesses are examined in support of the case against him. Witnesses are cross-examined by him or his lawyer to see if there are infirmities or contradictions in their testimonies. Sometimes, very rarely, the accused produces his witnesses called defence witnesses. The Magistrate or the Judge then, after examining the matter before him, decides whether the case against the accused is “proved” beyond reasonable doubt. He must give a reasoned judgment, not a captious order. A good Judge will give reasons as to why he chose one version instead of another, why he believed or did not believe a particular witness. If he finds that there is reasonable doubt, as explained earlier, he will pass an order of acquittal. It must be remembered that a person cannot be prosecuted on the same facts. This is called the doctrine of double jeopardy.

Where an accused is convicted, he may appeal to a higher Court. There is only one appeal. Where the prosecution is aggrieved by an order of acquittal, it may also prefer an appeal. In an appeal against acquittal, the higher Court will not normally interfere for two reasons. One, the presumption of an accused to be innocent stands fortified by his acquittal. Secondly, if there are two views possible and the Court below has taken one of them, the higher Court will not interfere.

If the Sessions Court has awarded a sentence of death, that is always subject to confirmation by the High Court. So the entire material is re-examined and order passed. In a confirmation case, that is when the higher Court is examining the death sentence, the accused can

show that the conviction is wrong, whether he has preferred an appeal or not.

Witnesses are always examined on oath in the name of God if they believe in God. In case of a particular witness, solemn affirmation is sufficient. In any case, the Judge must be satisfied that the witness understands the solemnity of the occasion and the necessity of deposing to the truth. It is notorious that witnesses in India do not always tell the truth, even on oath. A witness who lies on oath will be punished by God in the afterlife and will also be punished for perjury. A person who tells lies on solemn affirmation will, of course, be punished for perjury.


Something must be said about some of the investigative methods followed by the police in India. There was a time when even a Head Constable would bring out the truth by intelligent questioning during investigation. In recent years, the method of intelligent interrogation has practically vanished. Brain mapping and polygraph tests are permissible because they are a continuation of interrogation without invading the freedom of the accused. But “narco-analysis”, which is being used frequently, is a third degree method. It consists of administering an injection of Sodium Pentothal or Sodium Amytal which makes the person semi-conscious and thus gives 'right' answers to the interrogator. It is done under an order of the Court. Giving injection without the consent of a person is causing him hurt which is punishable under the Penal Code. That is why the police take the permission or order of a Court. The answers given by the suspect are not admissible in evidence. They only give some clues for investigation. Moreover, the answers are not given consciously or in a voluntary manner. It is being used by the police as a substitute for intelligent questioning. Courts should not give permission for such tests as it is none of the functions of the Courts to assist the police in investigation.

As the name itself shows, Criminal Procedure Code contains several procedural matters about which an average citizen need not know.

The Courts and the lawyers will take care of the same. There are several laws, apart from Penal Code, which create offences. There are also procedural nuances. There are, in Criminal Procedure Code, procedures to control mobs, for externment proceedings and maintenance of peace. It is enough for a citizen to know and understand some concepts like benefit of doubt as explained above.

Despite it being a procedural statute, the Criminal Procedure Code contains some provisions which are not strictly criminal in nature. If any publication, newspaper, pamphlet or book contains material which is offensive to any religion or which brings about enmity between two or more communities in the country, the Government may declare such publication as forfeited to the Government. This order can be set aside by a Bench of three Judges by being moved by the aggrieved person.

There is a provision which obliges a person to grant maintenance of Rs.500/- to his wife or parent who is unable to maintain herself or himself. This is now regarded as applicable to all communities. Otherwise, maintenance is payable, among Hindus, under the Hindu Adoptions and Maintenance Act, 1956. For an average citizen it is not necessary to know more. The basic concepts should be kept in mind so that you will not be misled by the press or electronic media.



Freedom of the Press

On May 3, 2008, the United Nations observed the Freedom of the Press day. Every year in May that day is observed. The UN recognizes the dangers faced by the press all over the world and the observance of the day is reminder to the world that freedom of the press must be preserved. In every democratic country, freedom of the press is indispensable.

Freedom of speech and expression is guaranteed by the Constitution and press freedom is an aspect of that freedom. It is now well recognized that freedom of the press is freedom of speech and expression. If the freedom of the press is limited or restricted, it amounts to curtailment of the freedom of speech and expression. What a person wants to say, he may say it orally or he may say it through the press. That is how one cannot separate freedom of expression from the freedom of the press. It means that in India at least a law cannot be made infringing Article 19(2) of the Constitution. The said Article protects the freedom of the speech and expression. Under this Article, freedom of the press is also protected. It is now well settled that freedom of speech and expression includes the freedom of the press. Press is owned by individuals and the freedom of individuals is guaranteed by Article 19. That is so held by the Supreme Court in *Sakal Newspapers Ltd. v. Union of India*, (AIR 1962 SC 305). This case also held, in effect, that what cannot be done directly cannot be done indirectly. An order prescribing the price of a newspaper, on the basis of advertisements in that newspaper, was not a reasonable restriction and hence void.

India is having a written Constitution and a Supreme Court which can invalidate a law ensures the freedom of the press.

Freedom of press is beneficial not only to the citizens but also to the Government. During the period of internal emergency from 1975 to 1977, a very strict censorship was imposed on the press which was unfortunately upheld by the Supreme Court of India. During that, the powers that be, especially the Prime Minister, never came to know the wrongs committed by the Government. It was partly because of this that the Government was defeated in 1977.

East European countries, which were under the tutelage of USSR for more than 50 years, ought to have known the value of press freedom. No paper was allowed to air the grievances of the people then. Probably after spending more than 50 years, those countries and the people in those countries had developed "fear of freedom". That is what is seen even after 1989 when those countries became free. The history of these countries does not show that they have realized the freedom of the press. In recent years the regimes in some of these countries have almost become dictatorial. Or at least they have developed a dislike for press freedom.

In Slovakia, which has become a separate, free country after the Bosnian war, the loss of press freedom is conspicuous. Some papers have been appearing, in recent years, with blank pages, showing that they have been the subject of censorship. A new law relating to the media has been passed which requires the publication of rebuttal of a story about an individual in as prominent a manner as the original story. The excuse for this law is that it will make the media responsible. A refusal to print the media entails a fine a punishment. The Culture Minister, however, says: "It does not jeopardize freedom of the press. It merely upgrades the interest of the public above the interests of the publishers". The press has in recent years harried the Government for its inertia.

In Bulgaria, defamation of public figures is a crime punishable with a fine. Public figures include prominent businessmen. Journalists can

be sued for infringing “honour and dignity” of individuals. In the year 2007, as many as 100 cases had been filed. Rumania was probably the worst affected under the erstwhile Soviet rule. It had great opportunity to be free and to have press freedom. But, alas, it has enacted draconian laws. Most of the mainstream media are owned by three political active tycoons. The defamation law in existence criminalizes ordinary insult. “The legislators should strengthen their own accountability rather than hamper the efforts of free media”. This was the comment of American Ambassador.

Freedom House, a New York based NGO, has opined that ex-Communist countries have the biggest relative decline in media freedom in the world. Latvia and Poland have also shown deep aversion to political freedom as propounded by the press. It has been said that politicians think that the public broadcasters should toe their tune. Readers will remember the case of a Russian newspaper which published widespread rumours about the supposed relationship of erstwhile President Putin with a comely gymnast. Remember Putin himself was a gymnast. Putin lambasted the paper which closed down.

In 1993, the United Nations created World Press Freedom Day. It was intended to create awareness of press freedom all over the world. The day is also intended to remind the Governments to respect freedom of the press. Article 19 of the Universal Declaration of Human Rights says:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”

The United Nations Economic and Social Council (UNESCO) give a World Press Freedom Prize to an individual, organization or institution which has upheld and defended the right of free journalism throughout the world. This prize is named after Guillermo Cano, a journalist of Colombia who was assassinated in

1986. A Committee of 16 journalists chooses the winner of the prize. In 2007, the prize was posthumously given to Anna Politkovskaya, a Russian reporter, who reported on the conflict in Chechnya. She was shot dead in October, 2006. Thus the press freedom has a sad story.

Despite the Universal Declaration of Human Rights, all the countries in the world respect press freedom. Governments are the primary means through which a journalist's freedom is quelled. The extent of censorship varies from country to country. Many countries prevent criticism of the Governments, or the countries' religious or political tenets. In theory, journals are allowed to exist; but in practice they exist precariously. Detention and imprisonment are not unknown in many countries. The Committee to Protect Journalists, an NGO of New York, has estimated that 127 journalists were detained in 2007 and of them 17% were not even officially charged, worse still in 2007, 95 journalists and media staff were killed around the world. Majority of the journalists killed belonged to their own countries such as Iraq and Afghanistan.

In the days of French Kingdom, there were three estates viz. the nobility, the commons and the King. In democracy, the press is called the fourth estate. It is as important as the other three estates in a democracy. Indeed, in India, the free press is regarded as a basic feature of the Constitution. In a country like India, the three estates are the Parliament, the Executive and the Judiciary. The free press can be and is regarded as the fourth estate. A free press maintains checks and balances and keeps the Government on its toes. Of course, the freedom of the press is subject to law of crimes, libel, etc.

Reference to the history of freedom of the press is in order and freedom of the press is a necessary corollary of freedom of speech and expression. Examples of suppression of free speech can be found even in ancient times. Socrates provides a good example. Even a champion of the liberties of the people such as Cromwell placed restrictions on the press. Erasmus argued that in free State the tongues should be free. John Milton pointed out that freedom of the

press is essential not merely to citizens but also to society. Unfortunately, both Milton and John Locke did not allow any freedom to the atheists. Milton fought against the system of licensing what should be printed. The Great Revolution of 1688 recognized the press freedom. By and large, the press in U.K., U.S.A. and India enjoys freedom. However, during certain periods such as wars, or emergencies, freedom is curtailed.



“

Hypocrisy Rampant

Truth stands no chance in a world full of shams. Honesty is theoretically recognised as virtue, but if you try to put into practice, you will soon find it is a prohibited virtue. Hypocrisy is the order of the day. Honesty is supposed to be good for children, so invent lies in order to impress the value of the truth upon them. The story of George Washington refusing to tell a lie and the one about Napoleon striking medals in advance to commemorate his anticipated victory over England, are well known lies invented for the benefit of children. The copy book maxim about honesty being the best policy does not sufficiently strike the imagination, so we must invent stories that will. Honest teachers may, indeed go so far as to put undue emphasis on the word "policy" and point out that honesty is not considered desirable for its own sake, but only as a policy. Of course, it does not take long to find out that it is not even the best "policy" and that one may get into extremely hot water by putting it to the test.

”

Fundamental Duties : a Misconception

The Constitution of India is unique in the sense it contains the usual provisions. It also contains fundamental duties (not human rights which are inherent in them, but fundamental rights over which a citizen of India has an un-attainable right). The rights are always against the State. The State cannot disallow my speech, speaking, or disallow me to write etc. (except some provisions). These are called fundamental rights. These rights cannot be infringed. In case of infringement, you can always go to a Court. These are constitutional rights. Something that is given by the Constitution can be and is taken away. Formerly, before 1978, there were eight fundamental rights. We used to call them eight lamps. But right to property has been taken away by the Parliament in its constituent power on 20th June, 1979. It was not a basic power [see *Keshavanand Bharati v. State of Kerala*, (AIR 1973 Kerala 146)]. By the same amendment (Forty-fourth Amendment) Clause (f) of Article 19(1) has been deleted but Article 301-A has been now inserted. Right to property is no longer a fundamental right, property could be acquired in the interest of general public. Today it can be acquired for any purpose. The price to be paid is under either of these provisions. But it should be adequate. The State cannot pay one rupee for a Singur land. Then there is a Chapter on Directive Principles of State Policy. Some of these provisions were originally among the fundamental rights. But it was not difficult to see that those provisions could not be easily implemented or enforced. It would cost an enormous amount. Moreover, some of them were un-

enforceable. Giving humane work, living wages are not matters which a citizen can compel a government to do and such other matters were included in Part IV which deals with directive principles of State Policy. In the language of the Constitution itself "The provisions contained in this Part shall not be enforceable by any Court, but the principles therein laid down are nevertheless fundamental in the governance of the country and shall be the duty of the State to apply these principles in making laws." Probably, property cannot be compulsorily acquired without public interest; probably without adequate compensation.

Under Article 301-A, the State may acquire any property by paying proper compensation. It need not be for a State purpose or public purpose. In Singur, lands are being acquired for purposes mentioned therein. You can challenge that acquisition on the ground that it is not for those purposes.

We have so far two important parts of the Constitution. Now it is important to see another part, namely, Part IV-A. It should be remembered that nowhere in the world such a provision exists. Nor was it there in the early Constitution. In order to educate and enlighten Indians, this was introduced as Article 51-A of the Constitution. Part IV-A consists of only one Article, though eleven clauses. The clauses are not continuously coherent. This Part was inserted in the Constitution by the Parliament (when Mrs. Gandhi's tenure was nebulous) by the Forty-second Amendment.

Please read the Article and clauses carefully. They are noble thoughts and they must be followed. We all agree that a citizen, as the recent advertisements proclaim, must pay income tax regularly. But if I do not pay the income tax at all, there is nothing in Article 51-A to penalize me. It is the income tax read with the relevant Finance Act which will fine me or send me to jail. It is not the fundamental duty I am being enforced; it is the criminal liability that is being imposed on me.

Article 51-A is in the Constitution and every minister, before taking

office, takes an oath that he will abide by the Constitution, which includes Article 51-A. When an officer takes an oath under the Constitution, he undertakes to abide by the Constitution, including Article 51-A. An officer put in the witness box will admit that he does not know or read Article 51-A. Yet he takes oath. These oaths, as you know, are promissory oaths. If a person contravenes this oath, he cannot be prosecuted. In this age of public interest litigation, it is worthwhile taking an officer to the Court for a definitive view from the Courts.

Not all candidates will be ready. An oath taken under Article 51-A(h) is itself ready. Examples of unscientific acts abound. Mrs. Indira Gandhi probably never went to the temples or Sadhus and Sanyasins seeking the latter's' blessing. She was, however, wearing beads. In those days there was a "Sadhu" who had magic feet. A photo which appeared in the newspapers showed Balaram, a trusted Indira Gandhi follower and a leading politician, putting his head below the "sacred feet" of the Sadhu. Article 51-A(h) was already in force. Probably, Balaram might have sworn by it. Shankar Dayal Sharma, another Indira Gandhi's trusted follower and at that time the Vice-President, who later became the President, frankly and openly admitted that he became the President because of the blessings of Lord Venkateshwar of Tirumalai. In order to propitiate the God, he went by a Government's plane to Tirupati and got not only his head tonsured but also eyebrow shaved. This much Sharma admitted.

Once Indira Gandhi supported Sanjeeva Reddy for Presidentship. However, she let him down and V.V. Giri became the President. Sanjeeva Reddy was honest. When he became the President, his success was due to the blessings of Lord Venkateshwar. This was after Article 51-A was introduced. Later he took the oath that he "will faithfully execute the office of the President ..." and will to the best of his ability "preserve, protect and defend" the Constitution. All these after Article 51-A was inserted in the Constitution. This is the scientific temper of the President of India.

Please work out the implications of this. He (God) made Mrs. Gandhi play the double game and saw to it that she was defeated. God also saw to it that the requisite number of legislators were elected. (Remember, Giri was elected by one legislator's vote).

As the elections are approaching, politicians have become suddenly religious. After filing the nomination papers, they start visiting temples. But Jesus Christ said "Many are called, few are chosen". So only few are elected because of God's blessings. The success or failure of a candidate should depend upon the electorate, not upon God. Otherwise, it will be an election of people versus God. If a candidate is chosen by God, is it not unfair to the other God? Considering all these factors, the Election Commission should include in its rules the following to be subscribed by a candidate:

"I hereby swear that I have not prayed to God for succeeding or I will not thank God for my success."

The Election Commission has the power to frame such a rule. Sonia Gandhi, if she desires, can get such a rule framed. The authority administering the oath must specifically ask the officer taking the oath whether he has read Article 51-A. Incidentally, there is only one Article in Part IV-A.

Where the constitutionality of an election is challenged, the Court must look at Article 51-A. There is a precedent (one does not know about its validity). The High Court of Allahabad quashed a notification under the Land Acquisition Act as mala fide. The High Court dismissed the significance of Article 51-A(g) and reminded the litigants that a new Article has been inserted in the Constitution. The Court pointed out that "excellence meant surpassing merit, virtue, etc." Constitutional lawgivers have provided that the citizens of this great nation shall perform their duties, in an excellent manner rather than perform their duties half-heartedly. The performance of those duties falls within the Constitution (AIR 1988 All 309).

P.M. Bakshi has suggested that the Courts may look at the

fundamental duties while interpreting the Constitution. If it is not possible to enforce these duties (frankly it is not), let Part IV-A be deleted. A solemn resolution may be passed. I must pay income tax; if I do not, I will be penalized. I must develop rich heritage of the country. If I do not, nothing can be done. There is no law in this regard. Duties are alright, but duties cannot be enforced. Is our Parliament bold enough to pass the laws? If not, delete Part IV-A. Otherwise, it is only a cosmetic attempt.



“

Brahminism

Brahminism is nothing but a crafty profession under the guise of religion and has knack of appearing under false pretences. It is gross and sexual, and yet appears to be refined and spiritual. It is vicious and crooked and yet pretends to be moral; worldly and yet seems to be religious. Such a system should be destroyed ruthlessly for the very spirit of Brahminism is inimical to the good of humanity. It represents a feudal form of capitalism and exploits the wealth of the rich under the form of Daksina which is the life force of Brahminism.

- R D Karve

Reason, Oct 1932

”

Police and Investigation

Arushi's murder and the ensuing investigation by the U.P. Police and C.B.I. occupied the space of electronic media for more than a month. Almost every day electronic news channels telecast what was going on in the case. Everyday the police both U.P. and CID were giving interviews to the television channels and discussed the stage of investigation. On a couple of days, I remember, one TV news channel (name withheld) devoted its entire time on Arushi episode. The news channels gave not only news but their views as well on the incident. Some of them even held some persons guilty basing their views on the garbled version of the case given by the investigating agencies. Suddenly, with CBI conceding that there was no evidence against Dr. Rajeev Talwar, the unfortunate father of the girl, he was released and the news channels went dumb.

The enormous national interest in the case was due to the fact that a teenage girl was involved and her father, a dentist, was arrested and was in custody for 50 days. The ham-handed approach of the U.P. Police and more particularly of the NOIDA Police throws up several points for discussion. First, the police giving interviews to the media every day disclosing the stage of investigation. Secondly, the remarks made by the Inspector General of Police of U.P. on the character of the victim was not only unwarranted but was also in bad taste. Naturally, the Central Minister of Child Welfare took strong objection to those remarks.

In the initial stages of investigation, the U.P. Police showed rank

incompetence. First they neglected in not guarding the place of offence. Secondly, they suspected the domestic help who himself was found murdered at the same time and place. His body was found on the terrace of the building in which Dr. Talwar resided. The first principle of investigation, namely preparing a Panchanama of the place, was ignored. If they had done so, the body of the domestic help would have been found. The investigation was contaminated by this and some other factors.

The U.P. Government in a sense washed its hands and entrusted the case to CBI. The case was, may be, complex; may be a difficult one. But it was not an inter-State offence nor was it an offence against a Central law. Why should the CBI take such a case? In any case, the CBI has not come out with flying colours. Since the news channels are silent till going to the press, it is not possible to know the present stage of investigation.

Initially no search of the weapon of offence was done. It is an elementary principle of investigation that the weapon of offence must be found out. Secondly, the investigating officers, whether of the U.P. Police or of the CBI, went on telling of 'confessions' or statements of various persons. Such confessions or statements made to the police are inadmissible in evidence (See Sections 25 and 26 of the Indian Evidence Act). It is easier to tell the public of evidence (not inadmissible in Courts) of the guilt of the person arrested and then blame the Courts for letting off the person.

The police, in the instant case, resorted to narco tests in order to know the lines of investigation. Briefly, let us see the various methods by which truth is sought to be detected. The one is the polygraph. It is sometimes erroneously known as a lie detector. It is a non-invasive test. The underlying theory is that when people lie they become nervous and give all sorts of replies. The suspect is asked about the case and from his answers some inference is drawn. However, the replies do not come within the ambit of evidence. The suspect is not even touched physically. It is essentially a question and answer session.

Encephalograph or P-320 is another method. It involves brain mapping. The person involved is directly asked questions relating to the offence. In two stages the questions are asked. In the first stage, innocuous questions are asked. In the second stage, questions directly related to the case are asked. The encephalograph shows certain changes. It should be remembered that it is an invasive test. The brain does not speak. The investigator can only guess whether the person concerned is telling the truth or not. Though the test is invasive and is handled by experts, it does not lead to truth. Both the above two tests have not been used in India or at least in Courts, to the writer's knowledge.

Narco analysis test is the most controversial test. It is an invasive method inasmuch as the person under analysis is given an injection and is made half-conscious. It is being used under anaesthesia. The test is conducted by administering 3 grams of sodium pentathol dissolved in 3000 milliliters of water. This solution is administered intravenously under the care and supervision of a qualified doctor. Less than 3 grams of sodium pentathol might keep the person awake; more of the solution might make him unconscious, unable to respond to any question, thus making the test ineffective.

History behind the test is worth knowing. A lady was administered anaesthesia. But the doctor required an article. She alone knew where it had been kept in the house and she told her husband. Thus it was realized that a person who is half-conscious tells what is in his or her mind. This is tantamount to psychotherapy and in the writer's opinion it is a third degree method. The person concerned is not telling anything willingly or consciously. The administration of injection amounts to harm as understood in Indian Criminal law. It amounts to an offence under Section 323 of Indian Penal Code. That is why the police always take the permission of the Court. There is no Supreme Court decision on the validity of the test. However, the Bombay High Court has held it valid. The usefulness of the test depends upon its validity.

Moreover, what is the value of the test? The person under test is

unconsciously or half-consciously giving information which is heard by the doctor administering the test. The information is not given voluntarily or consciously. Has it any value? If a police officer is also present during the test, any statement made to him is inadmissible in evidence. May be, the information given by the person may be a clue to the police while conducting investigation. This is a very crude method of conducting investigation. Investigation is an art and the police should be properly trained in it. It is easy for a police officer to sit in an easy chair and conduct investigation by third degree method. Information collected in this manner and given in Court, however, fails and acquittals result. That is why so many acquittals are taking place in the country.

Recently, the Mumbai police are relying on a new test. It is called Brain Electrical Oscillation Signature (BEOS). In this test, electrodes are applied to different parts of the brain to detect activation of the brain. The person is then made to wear a cap with 32 electrodes. The answers given are then recorded in a computer. Criticism of narco-analysis made earlier applies to this test also. Answers are not voluntary. It is not evidence as required by the Indian Evidence Act. It is invasive. Its legality has not been tested even by the Bombay High Court. The usefulness of revelations made in such a test depends ultimately on their acceptance in evidence by the Court.

The police in India must be properly taught the methods of investigation. Sir James Stephens writing as long ago as in 1883 had made adverse remarks on the third degree methods of Indian police. It is far pleasanter to sit in the shade rubbing red pepper on a poor devil's eye than to go about in the sun 'hunting for evidence'.

Questioning of witnesses is an art that requires great patience and involving hours of work which the police in India are not able to do or not willing to do. Proper and adequate training should be given to the police to acquire this skill. The Courts must be made to believe that investigation is conducted fairly and the evidence is collected properly. That way, alone, the number of acquittals can be reduced.



Judicial Activism

'What is judicial activism?'

The question must be properly understood by all the persons who extol and who criticize judicial activism. It is unfortunate that some people praise judicial activism while some say that Judges are “acting smart”. This is partly because these persons have not understood the system of government envisaged by the Constitution and prevalent in the country.

Our country adopted the Westminster model of the system except that unlike in U.K., the mother of Constitutional Government, our Constitution has a judiciary given the power of issuing writs and orders regarding the Government and statutory bodies. Ours is a written Constitution as in the U.S.A. It is well known that in the U.S., the Supreme Court invalidates a law and issues various writs and no one talks of judicial activism in the U.S. Tonnes have been written on the role played by the U.S. Supreme Court. Free comments are made on the judicial conduct and social philosophy of the Judges. They speak of orthodox and conservative Judges and of progressive Judges. Fortunately in India, judgments are not seen in the light of philosophy of the Judges. Our Judges, in line with the Judges of U.K., have always adopted judicial approach. In the judiciary itself there are checks and balances. To talk of judicial approach is to miss the mark.

Unlike in U.S.A., but like in U.K., our Constitution has three distinct institutions. There is in the first place, legislature. Secondly, there is

executive, which is as in U.K., a part of the legislature. Lastly there is a judiciary with Supreme Court of India at the top. Besides, there are, for the good governance of the country, other constitutional authorities as the Election Commission of India and the Comptroller and Auditor-General of India. Each of these authorities has a well-defined sphere of jurisdiction.

In U.K., the judiciary has no power to set aside a law on the ground that it is invalid and illegal. The Parliament is supreme and sovereign. It is jocularly said that the Parliament can make a man into a woman and a woman into a man. Of course, the Parliamentarians will be mad if they make any such law.

Not so in India where there is a written Constitution. Sovereignty rests in the Constitution which is supreme. All the authorities are the creatures of the Constitution. Laws made must be consistent with the provisions of the Constitution. The authorities cannot overstep the lines allotted to them under the Constitution. If a law made by the Parliament is not in its list, it can be and will be set aside. When the Parliament is not supreme or sovereign, there must be some authority which can and should invalidate a law made contrary to the provisions of the Constitution. That authority is the judiciary.

A written Constitution in a democracy necessarily means that laws can be scrutinized by the judiciary. That is so under the oldest written Constitution, that is of U.S.A. and that is so in India. The Parliament and the State Legislatures have passed several laws since the Constitution came into force and it must be said, the Supreme Court and the High Courts have not been in hurry to declare the laws invalid. Some laws have been declared unconstitutional as being in contravention of Part III (Fundamental Rights) or not in exercise of legislative powers as mentioned in the Seventh Schedule of the Constitution. If any law infringes a fundamental right, it has got to be set aside as otherwise the citizen will be left with no remedy. Ours is a federal country and if one or the other legislative body passes a law not in accordance with the Seventh Schedule, it will destroy the

federal structure and, therefore, it has to be invalidated. This invalidation has to be done by the judiciary whether the Supreme Court or the High Courts under Article 32 or Articles 226 and 227 of the Constitution. If this is not done, the Courts will be shirking their duty. If this is done, one cannot say that it is judicial activism.

By and large, the Parliament and the Legislatures have done well, fairly and satisfactorily, by passing laws in the social and economic and even other fields in response to the needs of the society, as they are expected to do in a democracy. They have passed and the executives have enacted measures for the weaker and vulnerable sections of the society. And the judiciary has not interfered with such laws and measures. This is not judicial activism. Unfortunately, whenever a law is struck down, or a measure is invalidated, it gives rise to great publicity and a cry is raised of judicial activism.

It is common knowledge that in recent years the quality of legislation and executive actions has suffered. Books and articles have been written on judicial control of legislative and executive actions and these are not by Judges. Judges, at least Sitting Judges, do not venture to defend their judgments. In the words of Mr. Learned Hand, a Judge of the United States Supreme Court, Judges should not peddle their wares in the market place.

Unfortunately, the legislatures sometimes do and have passed laws that are invalid for one reason or the other. This is a feature of the Indian State which has been pointed out by several legal and social commentators. The eminent Scandinavian scholar Mr. Gunnar Myrdal has called India a soft State, partly because the Governments have not the will, the discipline and wisdom to implement properly the laws which have been even legally passed. The result is that several schemes in the social and economic sectors are not implemented or implemented defectively.

In such a state of affairs, on complaints brought before the Courts, the Courts have redressed the grievance. A scheme is not being implemented or being implemented inadequately or

unsatisfactorily. This may be due to ignorance or lethargy. In such a situation there must be someone to remind the executive and it is this function that the Courts do. The Courts have powers to do so under the Constitution. One cannot call this judicial activism. Nowadays the Courts are more frequently called upon to do this job. This is inevitable, though unfortunate. When the Courts perform their duties in such a manner, it is called “judicial activism” in a pejorative sense.

It is at this stage that one should take note of what has been called public interest litigation. Public interest litigation in this country, partly popularized by Justice P.N. Bhagwati, has played a vital role. It must be remembered that an action becomes the subject of judicial review if it is without jurisdiction or in excess of jurisdiction. It may be in denial of jurisdiction in accordance with law. There are various situations in which an action may be legally wrong. The inconvenient but necessary job of examining such actions is with the judiciary. You cannot call this judicial activism.

Judiciary has shown activism in what is called Public Interest Litigation. In this litigation the Petitioner is not always the person affected. An objection is often raised that the petitioner has no complaint of his own and, therefore, cannot maintain an action. The really aggrieved person is not the Complainant that is the contention. The problem is that the person aggrieved or prejudiced has not the wherewithal to start or maintain litigation. Very often, as in the case of environmental problems, the Petitioner is only one of thousands or lakhs of persons affected. I will shortly give some examples. In such cases the Court will find out the contents of the complaint and will not be worried by the identity of the Complainant. The truth of the complaint and not the identity of the Complainant should be the criterion.

It is true that some times the public interest litigation is abused and sometimes private grouses are sought to be settled. In the past, sometimes the Courts have fallen victims to such abuses. There has

been strong reaction on the part of both the bar and the judiciary against public interest litigation of doubtful use. Nowadays, the Courts carefully examine the Petitions to see whether they contain real public grievance. No substantive orders are passed with hearing the contending parties. The Courts have also certain rules regarding Public Interest Litigation. The Supreme Court has in one case (*Sheela Barse v. Union of India*, AIR 1988 SC 2211) observed as follows:-

“ In a public interest litigation, unlike traditional dispute resolution mechanism, there is no determination or adjudication on individual rights. While in the ordinary conventional adjudication, the party structure is merely bipolar and the controversy pertains to the determination of legal consequences of past events and the remedy is essentially linked to and limited to the logic of the parties. In a public interest action the proceedings cut across and transcend these traditional forms and inhibitions.”

The workers were engaged in the construction work of Asiad at the instance of the Central Government and yet they were not paid minimum wages fixed by law of the legislature. They could not approach the Supreme Court. At the instance of Peoples Union for Civil Liberties, the Supreme Court issued several directions giving relief to the workers. The pollution in the city of Delhi caused by small-scale unregulated engineering units could only be alleviated by starting public interest litigation. The conversion of diesel engines into CNG engines in public vehicles could only be directed in public interest litigation. The corrosion of Taj Mahal in Agra by the large number of foundries could be stopped not by any individual but by a lawyer by public interest litigation. There are a large number of such cases. One can say such litigation involving public interest is judicial activism. In such cases, the individual whose right or interest is affected is not before the Court. The principle of locus *standi* is given a go by in such cases.

The essentials of public interest as emerging from *S.P. Gupta's* case

can be summarized in the following manner:-

1. There must be a legal wrong caused to a person or a determinate class of persons.
2. The wrong must arise from violation of a constitutional or legal right.
3. The person or the class of persons concerned must not be able to approach the Courts.
4. The Court should be anxious to ensure that the person initiating the proceeding is *acting bona fide*.
5. In a given case, the public interest litigation may be of benefit to the society.

It may be noted that public interest litigation is resorted to for wrong reasons. The Courts should be aware of such abuses. We should not be averse to public interest litigation. We should look to the enormous good it has done. The cause of liberty and public good has been served well by public interest litigation. The Courts are very often aware of the mistakes they commit and they are eager and willing to correct themselves. To take an example: The Thirteenth Amendment (1865) abolished slavery in U.S.A. Unfortunately, the U.S. Supreme Court in 1890 held that segregation is legal on the ground of separate but equal principle. This wrong decision was overruled in 1954 by a Full Bench unanimously in *Brown v. Arkansas* and the Court held that what is separate cannot be equal. Today a black person looks like being the President of U.S.A. It was the Court which acted as an agent of changes.

In 1970 the activist phase of the Supreme Court of India began. Partly it was a reaction to the abuses of internal emergency. The issuance of passport, the prisoner's rights, the right to speedy trial, the right to privacy, etc., have been the matters of Supreme Court decisions. The Supreme Court or for that matter the High Courts, in public interest litigation, have plugged the empty places in law. To take one example there is no statutory law in India on sexual harassments. In *Vishakha v. State of Rajasthan* (AIR 1977 SC 3011), the

Supreme Court held that sexual harassment in the work place is a violation of Articles 15 and 21 of the Constitution. The Court gave detailed directions on the subject and held that the rules in the Convention of the United Nations would be the law in India until suitable legislation is passed. For more than eleven years, the Government has not done anything in the matter. It is the judiciary that has practically legislated on the subject.

It is quite true that in some cases the Courts might have overstepped the limits. One must, however, look at the generality of the picture. Judged from this angle, judicial activism has done a great service to the country. It is high time the Government must govern construction of roads, attending to problems of pollution, laying down the railway timetables and running the trains accordingly. Let the empty places be occupied by the governments and let the Courts do their legitimate duties of adjudication. The arrears can thus be reduced.



Religious Blindness

The will to believe induces in religious people a variety of blindness for which there seems to be no cure. Apparently educated people, whom one would expect to be acquainted with at least the elements of logic, will, with the utmost seriousness make the most ridiculous statements which will send the non-believer into convulsions of laughter.

- R D Karve
Reason Jan 1935



National Anthem

From time to time, controversy arises and has arisen over the status of “*Vande Mataram*” as a national anthem. Most of the people know that it is a national song though many do not know the exact words. At least the present generation does not know the hoary history of the song. I hope that people at least know that a nation must have and has a national anthem which is to be sung or played on occasions.

National anthem, hymn, is a song which expresses, at least supposed to express, patriotic sentiment. It is generally authorised by the Government of the country. It should not be too long; it should be small enough which can be sung in chorus; still better can be sung in a march. Its 'singability' is a merit. Normally, a national anthem is associated with an occasion important in a country's history and usually has an inspirational value for the people. Any song, whatever its poetic value, cannot be a national anthem. It is not necessary that it should have been composed or written by a prominent composer or a poet. *Encyclopedia Britannica* says that the oldest national anthem is that of Greeks. In Britain, it is “God save the Queen (or King)”. It has been regarded as a national anthem since 1825. Subsequently several European countries have developed their own national anthems.

The best known national anthem is that of France. It was composed and put in Music by an army engineer and was sung by army volunteers from Marseille as they stormed Tulleries on August 10,

1792 three years after the French Revolution. It became known as a song of revolution. The U.S. national anthem “The Star Spangled Banner” was composed by one Francis Scott Key in 1814 while watching the British bombarding Baltimore. He was at that time held in custody in a British ship. The melody was taken from a song then popular. Sometime changes are made in the national anthems to suit the “singability”. Normally a song will not become a national anthem because it is composed by a great poet or because it contains poetic qualities.

What are the origins of *Vande Mataram*? It is a song in the novel written in Bengali by Bankim Chandra Chatterjee, a celebrated writer and a poet of Bengal. “Anandmath” written by Bankimda was a very popular novel. It was Bankimda who gave Bengali the status of a classic language. Earlier Bengali was a stale and poor language. It was Bankimda's ambition to uplift the level of that language which he did by, among others, “Anandmath”. Those who know Bengali speak of it as a beautiful language.

Originally *Vande Mataram* was not a part of “Anandmath” which was published in instalments in a Bengali magazine. Subsequently it was introduced in the appropriate place.

The novel is set in 1771 in famine stricken Bengal. The novel revolves around a Sanyasi and his organization of santans. There is a controversy as to whether it is against Muslims or British. The Muslims have expressed their opposition to it on, at least, the ground that it is anti-Muslim. It is not necessary to now go into that controversy.

There is an interesting story on how the poem came to be written. On 7th November, 1875, Bankimda was quietly meditating on the bank of Ganga when suddenly he heard a fisherman's song (in Bengali). The song said that Ganga was mother Durga, a goddess. The song was in the right tune which Bankimda was looking for. And thus was born the *Vande Mataram* on 7th November, 1875 Kartik Suddha Navami, Bengali Year 1797.

If you read the translation of the song in English, you will notice that this song is not a song of the nation as a whole or for the nation. (Translation by Basant Kumar Roy, published by Orient Paperbacks). In the first part, Chapter 10, the song is reproduced. It speaks of Durga, the goddess dear to Bengalis and three crores of people (that was the population of Bengal at that time). The opening stanza of the song hails the mother who gives good water, good fruits, cool breeze from the mountain, green corn crops. These words appealed to Bengalis who were reeling under famine. But the novel as a whole does not or did not inspire patriotism, though it is said to have certain great literary qualities.

The song was rehearsed in the sessions of the Congress. Even Tagore, sometimes his niece Sarladevi, sang the song, thus raising its status. D.V. Paluskar, the well-known musician, often sang the song at Congress sessions at the invitation of the organizers.

In 1923 at the Kakinada Conference, Maulana Mohammed Ali was the President. When Paluskar rose to sing, Maulana Mohammed Ali objected. Paluskar, without paying heed, sung the whole song. Mohammed Ali pointed out that the song, intending to worship a goddess other than Allah, was anathema to Islam and Muslims. Originally Muslims' opposition to *Vande Mataram* was not consistent. Khilafat movement conferences used to be started with *Vande Mataram*. Muslims oppose the song on the ground that it depicts the portrait of a Hindu Goddess. Some of the prominent Muslim writer-thinkers have absolved *Vande Mataram* from this accusation. Maulana Mohammed Raza wrote a book called "*Vande Mataram*" in Bengali. He says that "certain elements amongst us deny simple facts of life (nation as mother) by portraying it as idol worship. Many simple things like touching the feet of parents or to hang a frame of a national leader on the wall or to pay respect to a national leader ... cannot be idol worship." Even today Jinnah's portrait hangs in every Government office in Pakistan. Another Muslim writer, Mustapha Charit (Biography of the Prophet) describes the land of Arabs as Hey Arab Manav-er adi Matribhoomi. Be that as it may, it must be

conceded that the bulk of the Muslims are opposed to the song, especially with Durga in it.

Overseas in 1907, at Stuttgart in Germany, Madame Cama unfurled India's first national flag with *Vande Mataram* inscribed on it in the centre in Devanagari script. Mahatma Gandhi said that whatever the origins of the song, it has captured the imagination of the people who are stirred by it. The song was sung in conferences, processions. Records have been made of the song. Jawahar Lal Nehru commended it except that it has no "singability". Master Krishnarao, a great musician, attempted to show that it can be sung in a rhythmical manner. Tagore, in conversation with Mulk Raj Anand, said; "I hope it becomes the national language some day". Such, in brief, is the story of *Vande Mataram* which has been given the same status as "*Jana Gana Mana*", which is the national anthem.

"*Jana Gana Mana*" was composed by Rabindra Nath Tagore. It is a beautiful song addressed to "dispenser of India's destiny". It tells of the provinces of India (though not all because of the limitations of space). It tells how this country has received from time to time people from all religions and races. It is however to a God. Sometimes it was thought by some people that it was an eulogy of the emperor of India. After examining the dates, inconsistent accounts in the press and the meanings of the words in the poem, it is now recognised that Tagore did not write for the emperor. "Dispenser of India's Destiny", "King of Kings", "Eternal Charioteer" could not have been addressed to King George V who happened to come to India in 1911. The song has been recited as one of the songs in meetings where the King was felicitated. Thus the confusion was caused and then Anglo-Indian press reported that Rabindra Nath had composed it in honour of the King-Emperor. It was not as popular as *Vande Mataram* though it was recited in many meetings. Rabindra Nath himself thought it below his dignity to rebut the imputation. However, in a letter to a friend, he wrote: "I should only insult myself if I cared to answer those who consider me capable of such unbounded stupidity to sing in praise of George the Fourth or

George the Fifth as the eternal charioteer leading the people on their journey through countless ages of timeless history of mankind.”

Bharat Vidhata was the title under which the song was first published in January 1917 issue of “Tatvabodhini Patrika” of which Tagore was the editor. Gurudev himself translated it into English in 1919 under the title of “Morning Song of India”. Subhas Chandra Bose's Azad Hind Government rendered the song in Hindustani and adopted it as their anthem. They said that “Tagore's song 'Jaya He' has become our national anthem”. It was a good marching song when properly composed. *Vande Mataram* was not. In the good old days, people used to say *Vande Mataram* when greeting each other. Subhas Chandra Bose popularized “Jai Hind” as a greeting. “*Kadam Kadam Badhaye Ja*” was the song adopted by the Indian National Army.

At some stage the prominent position of *Vande Mataram* was emphasized. In 1937 a Committee was appointed by the Congress to examine the suitability of *Vande Mataram* as a national anthem. The Committee recommended that only first two stanzas should be sung, with liberty to the organizers to sing any other suitable song.

This decision was exactly the reverse of what was decided in 1950. *Jana Gana Mana* was adopted as the national anthem, with equal status to *Vande Mataram*. The difficulty with *Vande Mataram* was that it did not lend itself to harmonization.

The Constitution of India does not mention anything about national anthem. The law does not say that *Jana Gana Mana* is the national anthem. It is recognised as the national anthem on a statement made by Jawaharlal Nehru in the Constituent Assembly on 15th August, 1948. The people had not regularly sung it. There was no debate or discussion in Constituent Assembly or anywhere else. Absurdity of having two national anthems was ignored. Anyway, today we are with two national anthems.

Zenda Uncha Rahe Hamara with its suitability as a marching song

was not considered. Sare Jahan Se Achha Hindustan Hamara with its “singability” was overlooked. Zenda Uncha Rahe Hamara was familiar to people of our generation. Sare Jahan Se Achha Hindustan Hamara is recognised by its melodious nature by the Armed Force which regularly plays it. The latter talks of our country and it does not address itself to Durga or any dispenser of destiny. It reminds you that religion does not teach enmity among people a factor which is relevant today. Both are in Hindustani. There has never been any controversy about them. Today at least the Government should encourage people to sing these songs. BJP will not object; Muslims will accept them.



Guru Craze in Western India

The drift towards obscurantism and vague fascination for all that is occult and against reason has led to blind worship of imposters even by a large section of educated people in this country. It was curious to note that reason played a negligible factor in guiding the actions of a vast majority of people. In spite of their education they were as gullible as the most ignorant villagers and chose to be driven blindly in the field of politics, religion and other matters by self styled leaders who claimed to have derived inspirations from mysterious sources. The increasing following of such cults as Theosophy, Vedantism and what for want of a better word, we may call Vevekanandism, is due to the same intellectual or “quasi” intellectual movement.

Dr. RP Paranjapye,
Reason, Oct-Nov 1934



'Disappearances'

More than two decades ago Mr. Justice Mullah of Alahabad High Court dubbed the U.P. Police as the most lawless body in the country. Then most people did not take him seriously though what he said was pregnant with meaning. The citizens today complain that F.I.R. cannot even be registered. After the exposure of Nathari Killings people have suddenly woken up the inactive U.P. Police.

But the Police are not so active. They are under the thumb of politicians. It is most unfortunate that the popular Hindi actor should canvas the view on the T.V. that U.P. is a State mostly free from killings. This is a sponsored, paid view seeking to invite foreign investments in the State. Indians, mostly Ambanis, may have the inclination to invest in U.P.; they may be having their own 'axe' to grind. Foreign investors are, however, not so gullible to 'impressed' by unidentified flying object (UFOs). In any case, investment climate is not an unidentified flying object.

The people, in general, and human rights activists, in particular, have spoken of having exposed several human rights violations. Torture in the hands of Indian Police, not merely U.P. Police, is a prominent tool to need exposure. Custodial deaths have been noted, written about by law experts. At one point, the Law Commission recommended that the Indian Evidence Act should be amended as to charge the police officer in charge of a police station with murder if any undertrial prisoner dies. The types of human rights violation

within the imagination of Indian Police are many.

Encounter deaths in Maharashtra, especially in Mumbai, became too numerous so as to persuade the Bombay High Court to appoint the Bombay City Civil Court Principal Judge to inquire into such deaths. Some police officers are 'popularly' known as encounter specialists. In fact, a Hindi film eulogises an encounter specialist officer.

What the U.N. Human Rights Commissioner has called "a glaring gap in international human rights law" is existing for a long time. Mr. Pinochet, the ex-President of Argentina, perfected the art of enforced disappearances. Formal arrests were unknown. A citizen is called for inquiry and thereafter nothing is known about him. Many times, people formally arrested are released but no one knows what happened to them. Cases of persons just whisked away and not seen thereafter are not unknown.

The cases in Mumbai of Dr. Yunus are well known. He was one of many persons arrested for murder. He was taken from Mumbai to Aurangabad (also in Maharashtra) and was being brought back. He never reached Mumbai. The Court, when it intervened, was told that he jumped from the police jeep and disappeared. When it was pointed out that a person with handcuffs does not disappear that easily, the police contended that he committed suicide. He was in the custody of the Police. The explanation was fast. Now, a case is registered for murder against the police officers who had the custody of the man.

It is well known that the police kill beggar children in Rio de Janeiro, because they are ugly signs of the beautiful city. Then they are thrown away in the mighty Amazon River. The case of Plaza de Mayo is too well-known in human rights circle. People have disappeared for nearly thirty years and their mothers are still waiting. The instance of Argentina is also mentioned. Nearer home, disappearances are common in Jammu and Kashmir. It is reported that at least 500 women have decided to hold demonstration before Union Home Minister to highlight the cases of

their children who were picked up for inquiry but never seen again.

In the year 2006 alone, “the Working Group of Enforced Involuntary Disappearances” received more than 300 new cases from 12 countries around the world. The number of cases seems an underestimate. Even the Amnesty International is unable to keep track of disappearances. Many cases never reach the Working Group. From 1980 till today, the group has examined 51000 cases, and no clarification is forthcoming from 73 countries from where these complaints have come.

The grief, pain and anguish felt by the families whose members have disappeared can easily be imagined. Ms. Louise Arbour, the UN High Commissioner for Human Rights, reports that recently, during her visit to Japan and Nepal, she learnt, once again, about the “unmitigated pain that disappearances bring into countless lives”. Countless Japanese have been abducted by North Korea while Maoists in Nepal have taken many citizens as captives. In Nepal alone, the United Nations has received 500 complaints. In the name of fight against terrorism, abductions are taking place.

The French Government took a leading part in raising and drafting the International Convention for the Protection of all Persons from Enforced Disappearances. It is a revised version of the 1992 Convention. It stipulates, “No one shall be subjected to enforced disappearances. The Convention does not allow carving out new exceptions. Neither war nor threats of war, internal instability, internal or external emergencies, will be permissible excuses. Crucially it calls on States to define disappearance as offence against their own laws”. The Convention also establishes the right of the victims to know the truth and to claim compensation.

But, unfortunately, it is only a Convention. Though there are several obligations on the signatories, there are no ways of enforcing. The Conventions of 1976 on human rights suffer from the same disability. Nevertheless, it is heartening to know that the international community is aware of the evil. As Ms. Louisa Arbor recognises:

“When the euphoria of celebrations for the remarkable inhuman rights advancement evaporates, the hard work will begin. Early signature and ratification will mark a strong step in the promotion of human security.”



“

Reason and Politics

It may perhaps be agreed that the first requisite for scientific reasoning is a regard for truth, and as politics as practiced at present has nothing to do with truth. It is better for scientific writers to leave politics out of consideration. This would be correct argument if it was assumed that the truth is undesirable in politics, as some politicians will certainly openly assert, and the others will prove by their conduct that they agree with this opinion for all practical purposes.

Even if some rationalists may seriously take the view that since means have to be adopted to ends, it is quite legitimate to cheat your enemies in the time of war and since nobody can say when war will break out, it may be considered legitimate at all times even if this is not always considered as a preparation for aggressive war, but simply as a defensive measure against wily enemies.

- R D Karve

Reason 15 Jan 1932

”

Alexandria Library

Libraries do not make history. Nor are they noticeable places in history. Even the citizens are not always aware of a library in their city. Some Encyclopaedias do mention about Alexandria Library.

The Library of U.S. Congress is known as the number of that book is usually printed in the book. The Library of the British Museum is well known as in that library Karl Marx researched and produced “Das Capital”. You may even say the Communist revolution was launched from that library. Many are not aware that the Indian Parliament has an excellent library recently renovated.

But Alexandria Library is famous for historical reasons. Alexandria is the port town of Egypt founded by Alexander of Macedonia. It was the largest centre of learning and possessed the largest library of antique literature. It suffered loss during the days of Caesar and Theodosius. In modern time, it was restored to some extent after the opening of Suez Canal. It houses some of the great relics such as some great Roman antiquities. It housed at one time two obelisks known as Cleopatra's needles one now standing on the Thames embankment and the other in New York.

Hypatia, a woman of great beauty and intelligence, was closely associated with Alexandria Library. She knew that she was beautiful as well as intelligent so much so that she thought that no man was a match for her. She rejected many suits and continued in her pursuit of philosophy. She was a teacher of Greek philosophy and her

lectures were largely attended. She was not a Christian and was regarded as a pagan. She was known for her chastity.

The Archbishop of Alexandria got jealous as his lectures were thinly attended. In 415 C.E. when she was returning to her room, she was disrobed and killed by Christians who alleged that she was a propagator of paganism. There is a well known biography of Hypatia by Charles Kingsley. Incidentally, Charles Bradlaugh named his daughter Hypatia who edited some of his books.

M.N. Roy in his historic role of Islam comments that the real destruction of the Alexandrian seat of learning was the work of St. Cyril who defied the Goddess of learning in the famous fear of Hypatia. The Christian saint would not tolerate the philosophical lectures and mathematical discourses by a young pagan woman (Hypatia). He bemoaned the fact that a woman should be patronized by the Alexandrian society while the pious but incomprehensible sermons were attended only by a few. According to Roy, the rebels led by a regiment of monks burning with religious frenzy attacked the Alexandrian seat of learning and in the name of religion, perpetrated crimes too painful to be recorded and too shameful to be remembered. There is no instance in history where Saracens have shown or acted in an anti-knowledge fashion. The Caliphs encouraged men from the Arab world to study Greek literature, philosophy and medicine. It is universally acknowledged that the Arabs introduced Greek philosophy to the Western world when the latter was in dark ages.


During the period of the Fatimides of Africa, the library of Cairo counted over one hundred thousand volumes. M.N. Roy says that this fact gives lie to another calumny which depicts the rise of Islam as an eruption of savage fanaticism. The reference is the destruction of the famous library of Alexandria.

While books written in the eleventh and twelfth centuries scandalously give the story of the burning of the Library of Alexandria, contemporary accounts, even by Christians, are totally

silent on the subject and in fact point out that Saracens were specifically directed that the books acquired even in war should not be destroyed.

One apocryphal story needs to be noted. When the Arab army conquered Alexandria during the time of the Second Caliph Omar, the General in charge was dumb-founded by the large number of books in the library. He sought instruction from the Caliph as to what should be done about them. The Caliph is reported to have said: "If these writings of the Greeks agree with the Book of God, they are useless; and need not be preserved; if they disagree they are pernicious, and should be destroyed." According to the story, the contents of the Library were distributed among the city's public baths, whose 4000 furnaces were fueled for six months with papyrus and parchment rolls. What an unbelievable story.

Will Durant in "The Age of Faith" gives three reasons why the story is unbelievable: (1) A large part of the library has been destroyed earlier by Christian ardor; (2) The remainder had suffered such hostility and neglect that most of the collection had disappeared by 642 and (3) in the 500 years between the supposed event and its first reporter, no Christian historian mentions it. The theory, says Durant, is now regarded as a fable. In any case, the gradual dissolution of Alexandria Library was a tragedy because it contained the works of several Greek philosophers, and historians. Fortunately, in recent years, the library has resurrected and it now occupies several floors. It has been partly financed by UNESCO.



Democracy in India

Once an American Professor (of Politics) sarcastically remarked to me that India in fact is not a democracy. Like a true patriot, I retorted that India is a true democracy in as much as India has held every election in time. Even when under the now infamous Emergency, the general elections were held two years late, it was still according to law as the Supreme Court held. Not a single Government, whether of a State or of Centre, has been dismissed. We have a professional army which does not interfere in politics to maintain the secular character of the country as the Army does in Turkey.

Recent developments, however, have disillusioned me due to the somnolent nature of the Lok Sabha. The immediate cause of this disillusionment is the very short duration of Lok Sabha. Not that the Lok Sabha has met in sessions of long duration. In the year 2008 it has met only for 32 days despite the fact that the country is faced with several problems such as terrorism. For the record, it may be mentioned that in 1976 when Emergency was in force, Lok Sabha met for 16 days. In 1999, when N.D.A. was in power, the sittings were of 51 days. Subsequently the duration of the Lok Sabha has gone on dwindling and now so far it is only 32 days. It has been announced that it will meet for 10 days in December.

Often it is criticized that the Judiciary is enjoying too long vacations. The criticism is misplaced as it ignores the fact that Courts work for 5 hours daily continuously without any interruptions. All Courts sit

for at least 210 days a year. Vacations are not enjoyed; they are used at least partly, for brushing up law, latest decisions and taking instructions from clients and, sometimes, for discussions with brother advocates.

Nearly two hundred years ago, Abraham Lincoln, in his Gettysburg speech, gave expression to democratic Government as the one by the people, of the people and for the people. It is difficult to give a more succinct definition of democracy. Are we living even in small measure upto this definition?

There are about 50 provisions in the Constitution relating to the Parliament. There are hardly any indications that more than the majority of our MPs have familiarized themselves with these provisions. Unfortunately for the MPs their conduct in the Parliament is exposed by the electronic media. The suspension of the question hour every day is demanded by the Opposition and the Government is probably happy. The question hour is a very powerful, useful weapon in the hands of the Opposition. The right to information which by law is available to any citizen is eclipsed by suspending the question hour. By useful, probing questions the Opposition can get information which is otherwise not available. The Government can even be rattled.

By constant shouting, getting into the well of the House and interruptions, no Government of the day has been ever shaken. By a question, inconvenient or otherwise, Government can be embarrassed, rattled and this can be seen by the whole country, thanks to the media.

Importance of the Lok Sabha cannot be over-emphasized. It is the voice of the people. The Government of the day should be educated by appropriate discussions. It would then be "for the people". In the good old days, really good old days, Gokhale illumined a subject by studying it in advance. Nath Pai, Ram Manohar Lohia threw a flood of light on the discussion. If a bill related to a topic in agriculture, the members would come to the house after studying the relevant part of

agriculture. Fortunately, today the Parliament of India has an excellent, well-furnished, helpful Library. It is not only a duty but a pleasure to spend some hours in the library, though it may not be as large as that of the U.S. Congress.

Alas, the picture at present is pathetic. It is no answer to this criticism to say that disruptions are necessary because the Government is not responding to the Opposition's demands or queries. Interruptions do not activate a Government. They cut into the time available for discussions. The Opposition, instead of disturbing, can utilize the time available to it by proper speeches.

Protests may be justified, but not disruptions, interruptions and disturbances. The protest can be couched in speeches, question hour, adjournment motions, etc. The country is not impressed by such behaviour. Nor is the Government moved to action. Let it be said that even treasury benches are not free from criticism.

India is the only country where the Prime Minister is not a member of the Lok Sabha. He is not a resident of Assam but has been elected by that State to the Rajya Sabha. By amending the electoral law it has been provided that any citizen anywhere can be elected to the Rajya Sabha from any State. The previous Home Minister of our country was rejected by his usual constituency but was selected by Sonia Gandhi. Two powerful Ministers, the Prime Minister and the previous Home Minister, are not even members of the Lok Sabha which in effect governs the country.

The Rajya Sabha is the Council of States. It is meant to safeguard the interests of the States, not merely to give a second look at a bill. In America, thirteen States originally came together to form United States of America. The Senate zealously looks after the interests of the States. It is more powerful than the House of Representatives. Treaties must be approved by the Senate; federal appointments must be accepted by the Senate. Bills have to be passed; money has to be provided. In India, the Rajya Sabha's functions are innocuous; Rajya Sabha is practically a replica of the Lok Sabha.

The Supreme Court has held that the bribe-takers of the Parliament cannot be prosecuted, though the bribe-giver, even a MP, can be penalized. So the Narsimha Rao Government survived. The bribe-taker of those days is today the Chief Minister of a State.

Since 1991, we have been having coalition governments. A coalition Government has to accommodate different sorts of persons. Greater transparency is required in such situations. Elections in a democracy must be free and fair. To ensure freedom and fairness, large CRPF contingents are stationed in the electoral areas. The capture of booths is feared. Large number of people remains away from the booths, thus making the country inadequately represented.

When will real democracy dawn in our country?



Conversion and Humanism

Attacks on Christians are taking place again. Five years ago Stanes and his three sons were burnt alive in Orissa. No doubt, one who has done this cruel act has been arrested, prosecuted, convicted and sentenced. It has been alleged that the said person belonged to Bajrang Dal, which is a member of Sangha Pariwar.

Stanes was a missionary working among the poor and downtrodden people of Orissa. He was not engaged in missionary work of conversion or of propagating Christianity. His widow, in what is regarded as Christian spirit, said she was sad but not angry, having lost her husband and three sons.

The incident happened in Orissa which has a sprinkling presence of Christians. One Swami Laxmanand and his associates were killed. There was nothing to show a Christian hand in the killing. If anything, Christians who are in a hapless minority in the State are innocuous people. Orissa and Jharkhand are Naxalites infested States. It is not suggested here, without evidence, that Naxalites are the guilty persons. Nor can it be suspected that Christians are involved. Why, then, attack on Christians?

It is alleged that Christians are indulging in conversion of the gullible and poor people of the State. This is hardly the reason for the killing. If some people are converting to Christianity, it must be because of their conviction and choice. There is, in Orissa, 'The Freedom of Religion Act, 1967', the validity of which has been upheld by the

Supreme Court. If any one converts another by fraud, use of force or by inducement (widely defined), he is liable for prosecution. Has any prosecution taken place? Despite two hundred years of Christian rule in India, the Christian population of India is only 3%. Moreover, mostly tribals in the north-east, who had no religion, embraced Christianity, may be because of inducement. Christian missionaries have established schools, colleges, hospitals, etc. Where the menace of conversion?

It is at this place appropriate to take notice of the developments in law. Orissa was the first State to enact legislation restricting religious conversions. The Orissa Freedom of Religion Act, 1967 provides that no person shall “convert or attempt to convert, either directly or otherwise, any person from one religious faith to another by the use of force or by inducement or by any fraudulent means.” The Act defines conversion as renouncing one religion and adopting another. A person having no religious faith, as John Stuart Mill, adopts a religion. Mill himself has said in his autobiography that he did not shed religious faith because he had none. Does such a man by adopting a religion convert himself?

For culpability, however, the definition in the Act, and not in the dictionary, is relevant. The Orissa Act defines conversion as renouncing one religion and adopting another. It mentions that 'force' shall include a show of force or threat of injury of any kind, including the threat of divine displeasure or social excommunication. Inducement, the Act says, shall mean the offer of any gift or gratification. Section 4 is the punishing Section for conversion. The Madhya Pradesh Act contains a similar provision.

The Orissa High Court struck down the Act as being violative of Article 25 of the Constitution which guarantees to every one the right to propagate. If the right to propagate is part of religion, it could not be prohibited. The Madhya Pradesh High Court upheld its State's Act.

Both the decisions landed in Supreme Court in appeals. The

Supreme Court held that the right to convert is not a fundamental right and, therefore, it could be curtailed. "To propagate" does not mean to convert. The Court held that Article 25 does not grant the right to convert. In the unanimous decision in *Rev. Stanislaus v. State of Madhya Pradesh & others* (AIR 1977 SC 908), the Supreme Court held that the right to propagate meant only the right to transmit or spread one's religion by an exposition of its tenets. While so holding the Court ignored the legislative history of Article 25.

Late H.M. Seervai, in his *Constitutional Law of India*, has sharply criticized the judgment of the Supreme Court by pointing out what the leading members of the Constituent Assembly had said. For example, K.M. Munshi, a devout Hindu, said:

"Moreover I was a party from the very beginning to the compromise with the minorities which ultimately led to many of these clauses being inserted in the Constitution and I know that it was on this word that the Indian Christian community laid the greatest emphasis not because they wanted to convert aggressively but because the word 'propagate' was a fundamental right of their tenet. ... So long as religion is religion conversion by the free exercise of the conscience has to be recognised."

Mr. T.T. Krishnamachari pointed out that every one has the right to convert subject to public order and morality. The members recognised that the right to conversion is part of the religions like Islam and Christianity. Even the Arya Samajists claim to convert people lost to Hinduism by Shuddhikaran. This conversion never crossed the line of law and order. It is the Bajrang Dal which is causing the disturbance of public order and not the converters. It is thus obvious that there was no warrant for the enactment of laws in Orissa and Madhya Pradesh. It has not been demonstrated that in 1977 or thereabout there was any problem of public order created by conversion.

If one reads the discussion on the subject in the Constituent Assembly, one can easily notice that the right to convert is regarded

as a part of religions such as Islam and Christianity which are proselyting religions unlike Hinduism. Traditionally, a Hindu is born, not made. No one can be converted into Hinduism. Arya Samajists make an attempt at what they call "Shuddhikaran"; it is in effect reconversion. Much success is not achieved by this attempt because a person will ask what would be his caste if he is converted into Hindu. There cannot be a proper or adequate answer to this question. There must be a caste because Hinduism cannot be casteless, though legally untouchability has been abolished.

The hubris of Hindu Pariwar is totally misplaced. In the Parliament of 1892, Swami Vivekananda did not invite any one into the Hindu fold. Nor did the representative of any other religion praise Hinduism.

When Mira Ben, Gandhiji's disciple, wanted to become a Hindu, he advised her to become a better Christian. Similarly he advised a Muslim to become a better Muslim. Gandhiji probably thought that there is an essential unity among all religions. That is what Dr. Bhagwan Das thought. Maulana Wahidulla Khan has rightly pointed out that the basic doctrines of all religions are different and the unity of all religions is an illusion. Jews made Jesus crucified because they thought he was not the Messiah promised in the Old Testament. Christians believe in the divinity of Jesus, in crucifixion and in resurrection. Quran specifically denies all these three basic beliefs of Christians. Moreover, Muslims (and Quran) say that Mohammed is the last Prophet. Other religions were for particular people and Islam is for all mankind. In this view, Basaveshwar and Nanaka are not prophets and Veer Shaivism and Sikhism are not proper religions.

Humanism says that all religions were born in different times and in different countries depending upon the climate, psychological and emotional, of those countries and those peoples. There is not and cannot be permanence in them. Mahatma Gandhi advised Mira Ben to be a better Christian; he did not advise her or anyone else to

become a better human being. "Aajacha Sudharak", the Marathi Rationalist monthly, has written that Gandhiji is said to have mentioned as follows :-

There is no religion in the world as Hinduism which lays stress on knowledge, and yet the Hindus are ignorant;

There is no other religion as Christianity which teaches human brotherhood, yet the followers of no other religion have indulged in fratricidal wars;

There is no other religion like Islam which places emphasis on peace, and yet the followers of no other religion have taken part in so many wars;

No other religion in the world stresses non-possessiveness (acquisitiveness) as Jains, yet Jains are acquisitive people.

Buddha has strongly advised against having idols, yet Buddhists have erected the largest number of Buddha.

He could not have expressed the total ineffectiveness of every religion, though he did not necessarily mean it. Humanist does not pretend that he does not commit mistakes. His ethics are based upon utility, and science. What is good for man is not dictated by a mythical God. You cannot refuse to take injection or undergo surgical operations on the ground that they are prohibited by your understanding of religion. Injection or surgery saves life which humanism wants; religion does not. Fasting without medical sanction is unnecessary or undesirable only because religion wants you to starve or fast for a number of days. There should be no order from above through a prophet that is humanist. Humanist believes and acts on the belief that things in this world are more important than those of the unknown world. After all, man is his own master. That is the autonomy of the human being. Man is the measure of everything. Unlike religion, humanism looks upon things and events if those are relevant for human happiness. The substratum of every religion has been found to be untrue and false by modern science. How can the tenets of religions be a safe guide to human conduct?

Vinda Karandikar, a Marathi poet, has composed a beautiful poem in praise of Eve for eating the forbidden fruit and thus opening up the gates of knowledge. But for the birth and growth of science, mankind would be in darkness and be shackled to irrational doctrines of religions. A humanist will bemoan the death of human being in a communal riot and does not care whether that person is a Hindu or Muslim. After all he is insan. This should be the attitude of a humanist.

And finally, Humanism is that attitude of mankind which seeks values and knowledge from reason and experience and refuses to recognize the authority of any book or a person.



Saints and Fakirs

India is infested with saints, Sadhus, Sanyasis, Fakirs and other religious charlatans too numerous to mention. One meets them at every corner. The mentality of the uneducated Indian masses forms a particularly favourable environment for them to flourish in. They are privileged beggars and cannot be treated with contempt. For most of them lay claim to supernatural power and if they condescend to beg, it is only to provide the faithful with the opportunity to practice the noble virtue of Charity.

- R D Karve

Reason Mar 1932



Terrorism and the State

It is a great tragedy that the citizens and no less the State are taking terrorism in their stride. Terrorism is not a small crime. It is against the society and the State, and an act of terrorism results in the death of several innocent citizens. In recent years, acts of terrorism have increased. Malegaon (in Maharashtra), Hyderabad, Parliament, Akshardham in Ahmedabad, suburban (local) trains in Mumbai, Jaipur, Ahmedabad and Bangalore these are some of the places where acts of terrorism have taken place with the loss of hundreds of lives. One does not know who are behind these acts and what their motives are. One can guess the motives of terrorism in Kashmir. One can also imagine the acts of terrorism indulged in by Naxalites. But terrorism elsewhere is un-understandable. Acts of terrorism are committed by faceless men.

What do the terrorists want? Who are the terrorists? Answers to these questions can pave the way for negotiations. In Kashmir they are seeking union with Pakistan or at least independence. The demand is for obvious reasons, non-negotiable. But terrorism in other parts of India is without proper cause. If it is by Muslims, it can never succeed. India has, next to Indonesia, largest Muslim population who are, however, not staying in any localized area. A second Pakistan is not possible. Acts of terrorism which are indulged in can never succeed. Nor can it be said that terrorism is aimed only at non-Muslims. Indian population is mixed and when terrorist acts take place, they harm Muslims also. The chain acts of terrorism in Mumbai suburban trains and the bomb blasts in

Samjauta Express injured and killed Muslims also. A glance at the terrorist acts in other countries shows the utter senselessness of terrorism.

On July 28, 2008, two bomb explosions in Istanbul killed 126 persons and injured 150 others. "The Hindu" mentions that 700 Afghan civilians have been killed in 2008. Between May, 2003 and February, 2008, a staggering 104,317 Iraqis were killed in terrorist attacks. In Baghdad and Kirkuk, three suicide bomb attacks killed 61 civilians and wounded 238. The last mentioned one is only for one day. On other days, more bomb attacks have taken place. This is because of the Shia-Sunni problem in Iraq. According to "South Asia Intelligence Review", the number of civilians killed in India in 2007 was 957. Other reports have given higher figures.

I have given these figures only to show the severity of the terrorist problem. What is the State doing, at least in India? The citizens are tired of the State sounding red alert, only after the incident. High officials issue condolences and the Governments often sanction money to the next of the kin of those killed and those injured. It is not seen that the Governments having taken some, let alone adequate, steps to prevent recurrence of such incidents. The Governments are busy with politics.

Under the Constitution of India, law and order is a State subject. It is the function and duty of the State to maintain peace in the State. It has been argued, and it is possible to argue, that repeated acts of terrorism are a national problem and the Centre should step in. This is neither logical nor legal. In fact, the States in India will never allow the Centre to take over the function. The States are ruled by parties different from the ones at the Centre. Incidentally it should be noted that in India the last three acts of terrorism were in BJP-ruled States.

I am suggesting that terrorism should not be a matter of political issue. It should be handled as a national subject. It is not too much to expect that all the political parties come together and evolve a common strategy of tackling terrorism. It is unpatriotic to apportion

blame. The intelligence agencies, though controlled by the Central Government, should share intelligence, at least on terrorism, with State Governments irrespective of the fact that the State Governments belong to different parties. The Parliament may pass necessary laws; the State Government has to implement them. The anti-terrorist laws should not be the subject matter of politics or debate.


The history in India has unfortunately not been free from politics. Terrorist and Disruptive Activities (Prevention) Act (TADA) was passed in 1985, basically to deal with Khalistani problems in Punjab. The Act was meant to be temporary for two years, but was continued till 1995 in which year it was allowed to lapse. The non-Congress parties were not happy with practical repeal of TADA. NDA Government along with other parties passed Prevention of Terrorist Act (POTA) in the year 2002. It could not be passed in the Rajya Sabha as the Congress was in majority. The Government took the unusual step of getting it passed by the joint session of the Parliament (see Article 108 of the Constitution). It was a tragedy that in an issue like that of terrorism there should have been such a difference of opinion as to require a joint session of Parliament. Ultimately, when Congress-headed U.P.A. came into power, POTA was repealed in 2004. The Supreme Court has upheld the validity of both these laws with minor modifications. The interest shown by the Parliament can be seen from the fact that while passing TADA, only eight members participated in the discussion which lasted merely an hour and ten minutes.

The repeal of POTA was accompanied by incorporating almost all the provisions of that Act in Unlawful Activities Prevention Act (UAPA), 1967 in 2004. If this were so, why did the Congress oppose the passing of POTA and why POTA was allowed to lapse. Specific provisions of POTA found a place in UAPA?

In *Kartar Singh v. State of Punjab*, while upholding the validity of POTA, the Supreme Court affirmed the existence of a class of

offenders as distinct from ordinary criminals who could be tried under “normal” laws. Terrorism was recognised by the Court as “an aggravated offence”. It allowed the admissibility of confessions before a senior police officer under Section 15. The Government of the day defended the Act before the Court, but Parliament, at least a part of it, dissented. The Supreme Court has recognised that terrorism is a special kind of offence requiring a special kind of law. This view, I am sure, pervades the entire judiciary. But our legislators are not convinced. Some of our legislators have openly said that a Section of the population is not terroristic. Is it because of their pivotal role during the elections?

Terrorism is a serious problem; it is a phenomenon. Though it is a law and order subject and thus a State subject, it is a national problem. The State, with a capital, must be concerned with it. It must be handled by the nation as a whole. The Central Government should be an agency that should deal with terrorism. The States should welcome such a move as it would protect their territory and their populations. It is not merely a law and order problem; it is not merely a Constitutional problem. It is a question of the life of the nation. It is a question of unity and integrity of the country.



On Tackling Terrorism

Some years ago, a conference of Tories was held in Brighton. The then Prime Minister was staying in a hotel upon which an unsuccessful attack was made by the Irish Republic Army. A spokesman of the IRA rang up Margaret Thatcher to tell her:

“Today we were unlucky,
but remember, we will be lucky once,
you will have to be lucky always.”

Such was the arrogance of IRA which was the most terrorist organization of the world at that time. They kept the British Government busy and in suspense. They bombed a boat in which Lord Mountbatten was travelling and assassinated him, among others.

Anatomy of terror

But what is terrorism? Let us start with the dictionary meaning. Concise Oxford Dictionary (COD) defines “terror” as extreme fear and “terrorist” as someone who uses or favours violence and intimidating methods of coercing Government or community. There is usually some object in indulging in terrorism. IRA aimed at freedom for Catholics in North Ireland. Some Kashmiris have resorted to terrorism with a view to compelling the Government of India to grant freedom to the Kashmiris.

Often one does not know the aim of the terrorists. Acts of terrorism in Bangalore and Jaipur do not disclose the objectives of the acts.

Obviously they do not want freedom for Kashmir. We do not know what they want. If we knew we could enter into negotiations with them. Apparently they are senseless acts. The serial bomb blasts on March 12, 1993 were probably a response to the demolition of Babri Masjid on December 6, 1992. And there was no way of responding to those attacks. Since then there have been over 200 terrorist attacks, 17 in the last five years alone. There has been a terrorist attack on India but outside India, namely in Kabul.

The following table gives instances of terrorist attacks during the last few years:-

Date	Location	Number of people killed
13 th March, 2003	Mumbai	11
25 th August, 2003	Mumbai	60
16 th August, 2004	Assam	16
29 th October, 2005	Delhi	66

The latest acts of terrorism are:

Date	Location	Number of people killed
13 th May, 2008	Jaipur	67
25 th July, 2008	Bangalore	02
26 th July, 2008	Ahmedabad	58
13 th September, 2008	Delhi	29

Out of the four mentioned hereinabove, the first three are from BJP ruled States; so one can say they are Muslim-inspired acts against Hindutva. But on October 11, 2007 a bomb exploded on Ajmer, killing, fortunately, only two persons. On May 18, 2007 and August 25, 2007, two attacks took place in Hyderabad, one in a mosque. In

Malegaon in Maharashtra, twin bomb blasts took place after Friday prayers on September 8, 2006 in a mosque killing 40 people.

The abovementioned facts give rise to some possible conclusions. In the first place, the audacity with which attacks have been launched. Secondly, the frequency with which these acts of terrorism have taken place. The locations of bomb attacks are at different places. From North to South terrorism has raised its heads. The most significant conclusion one can draw is that the attacks seem to be directed not against one particular community. Attacks in Malegaon, Hyderabad and Ajmer were probably on Muslim community.

Hindus are not frequent or regular visitors to Pakistan. Many Pakistanis have relatives or friends in India. The “Samjhauta” Express is essentially meant for them. On February 19, 2007, two bombs ripped Samjhauta Express killing mostly Pakistanis. What was the rationale of this act of terrorism?

I am mentioning all these facts in order to show that terrorism in India has not got one face. Take the case of attack on India's Embassy in Kabul where mostly Afghanis were expected to be killed. As against 4 Indians, 40 Afghanis (all Muslims) were in fact killed. Terrorism in India is directed at the Government, though innocent citizens are killed. That cannot be regarded as collateral for the obvious reason that the maximum is the killings of citizens.

There does not appear to be a single thread in all these acts. (This inference is subject to any finding the criminal departments of the States and the Intelligence Bureau of the Centre have come to). Any attempt to deal with terrorism must proceed on the basis that we are dealing with multi-headed hydra. It is not enough to go only against SIMI though it must be involved in some acts of terrorism. We have to go after many terrorist agencies.

What are the steps taken by the States and the Centre in this regard so far? Terrorists and Disruptive Activities (Prevention) Act (TADA)

was passed essentially to deal with Punjab militants. It was of a limited duration and was, with a couple of extensions, allowed to lapse. There was at that time no opposition to it. But later when NDA Government was in power at the Centre, fresh legislation was sought to be passed. The Congress, which was in majority in the Rajya Sabha, was opposed to the enactment of the Act because of its belief that the Act was going to be abused. The NDA Government took an unusual step of calling a joint session of the two Houses and called it. Under Article 108 of the Constitution the President may summon both the Houses to sit in a joint session. Such a session was called and POTA was passed. This was in the year 2002. Despite this, not many anti-terrorist measures seem to have taken place.

In 2004, the Congress formed UPA Government in coalition with several parties. In the Common Minimum Programme, withdrawal of POTA was included, much to the delight of the left parties. So POTA was repealed. Many draconian provisions contained in Unlawful Activities (Prevention) Act of 1967 were included in POTA by amending the latter Act. But the new Parliament consciously avoided including the draconian measures of POTA such as:

- (i) admissibility of certain confessions made to a police officer (contrary to present Evidence Act);
- (ii) presumption of guilt of the accused (contrary to the cardinal principle of criminal jurisprudence);
- (iii) stringent bail provisions (contrary to 'bail, not jail' dictum of the Supreme Court);
- (iv) interception of telephonic conversations under certain conditions.

Whether because of the absence of Central legislation specifically on terrorism, more terrorist acts are taking place, as L.K. Advani says, is a moot question. With POTA in place, terrorist acts on the Parliament and Akshardham in Ahmedabad could not be prevented. Ultimately, the effectiveness of police actions and of legislation is important. Unfortunately, both parties, the Congress and the BJP, are

looking at terrorism as a party matter. Certain developments in the field of legislation give this impression. The Congress says it is for the States to take action as it is a question of law and order; BJP says, the States are not armed with proper legislation on the subject which the Centre has to solve. Defence of India is in the Union list; public order is in the State list; the Concurrent list contains criminal law and preventive detention.

It is worthwhile to have a look at the legislation in different States, so far. The Maharashtra Control of Organised Crime Act, 1999 (MCOCA) and the Karnataka Control of Organised Crime Act, 2002, have both received the President's assent, the first one on April 24, 1999 and the second one on December 29, 2001. This assent was given when NDA was in power at the Centre. The Andhra Pradesh Control of Organised Crime Act, 2001 also received the President's assent. It was for three years, but a new Act with the same provisions is awaiting the assent of the President.

MCOCA defines organized crime as, among other things, promoting insurgency. Promoting insurgency falls under criminal law which is entry 1 in the Concurrent List. The Bombay High Court, however, accepted the view that MCOCA was under entry 1 Public Order on the State List. Subsequently, the High Court has held that it is under entry 1 of the Concurrent List, namely, criminal law. Since it has received the President's assent, it is saved.

The Karnataka Act also uses the word “promoting insurgency” as forming a part of organized crime, as did the Andhra Pradesh Act, which lapsed. The Bombay High Court in its earlier decision took the view that though “insurgency” was a facet of terrorism, it could also be an aspect of “organized crime”. The Court ruled that reference to insurgency in the context of organized crime was merely an incidental overlap falling under the Union List and hence it was permissible. However, the provisions about the interception of telephones and electronic media were struck down. In the State appeal, the Supreme Court has upheld the interception.

The field is thus open for any State law to incorporate provision for interception and the conversation on telephones tapped being admissible in evidence. However, the admissibility of confessions to the police and the presumption of guilt are matters repugnant to lovers of human rights.

The question is, who is responsible for containing terrorism. If it is a subject of law and order, the States are responsible. Narendra Modi has criticized the Central Government for not giving consent to the Gujarat Control of Organised Crime Bill when a similar Act has been assented to by the President. The Gujarat Bill contains provision regarding interception of electronic communication. Now that the Supreme Court has upheld such a provision, there is no reason why the consent is being withheld.

The submission of a Bill for approval of the Government of India is not a constitutional requirement before its introduction in the State Assembly even if the Bill pertains to a matter in the Concurrent List. The relevant provision in the Constitution is as follows. Under Article 254, if a State law even if it is repugnant to as Central Act will prevail in that State if it has received the assent of the President.

The Rajasthan Control of Organised Crime Bill, 2006 and the Andhra Pradesh Control of Organised Crime Bill, 2006 are pending with the Central Government for the assent of the President before being introduced in the Legislation. The Gujarat Control of Organised Crime Bill, 2003, and the Uttar Pradesh Control of Organised Crime Bill, 2007, though have been passed by the respective State Legislatures, are waiting for the assent of the President. All the four Bills are on the model of MCOCA. MCOCA has received the assent. Why not these Bills?

Here, unfortunately, the party politics has entered the field. The MCOCA was assented when the NDA government was in power in the State. Now the Congress-led UPA is in power. Whether terrorism is a State or a Union subject or a subject in the Concurrent List, the administration of any law has to be done by the States. The


States must be properly empowered to do so.

It appears that the Centre is not getting the assent of the President on grounds of constitutional invalidity. Possibility of conflict with a Central law on the subject may also be weighing with the Centre.

The targets of terrorist acts are many. Usually any crowded place is good enough for the terrorist act so that fear will result in the population. A busy bazaar, a temple with devotees, a crowded train, courts, even a hospital as in Ahmedabad are places of possible terrorism. It is practically impossible to guard all these places as they are frequented by a large number of people. You cannot police the Indian railways as the Indian Railway system is the largest in the world. Temples attract devotees. Relatives and friends go to meet patients in hospitals. Where will you draw the line of no cross?

The only course open is to empower the law enforcing agencies. Making them more competent is important. In the wake of the recent Ahmedabad and Delhi blasts, the Mumbai police were put on guard. As a news channel of TV showed, being put on guard meant for the uneducated policemen was to stand at street corners. In view of the use of bicycles to carry bombs at Bangalore and Ahmedabad, it was expected that the police would check, at least at random, the bicycles. This elementary precaution was ignored by the Mumbai police.

Terrorism is a national calamity, not a party problem. It is the duty of the Central Government to see that it is tackled effectively. Which party is in power is totally irrelevant when the life and safety of the citizens are involved. Citizens of any State are the citizens of India and it is the duty of the Central Government to see that they are properly protected. The major political parties should come together and evolve a proper common strategy, instead of indulging in blame game. After all, politics is for the people though politics is a means to achieve the welfare and safety of the people. Elections are around the corner. It is the time to act.



A History of Terrorism

The title of the book is *An Anatomy of Terror*. A History of Terrorism is its sub-heading. Andrew Smith, an eminent literary figure now in Oxford has miserably failed to understand and appreciate the meaning of terrorism which means a stream of thought and action. Terror is a single act not to be confused with series of transactions. An "A" is assassinated; it is murder; the motive for murder in all probability is a single act. In a given case, as in First World War, it is not terrorism.

Discernible readers must bear this in mind. The Supreme Court and various academic bodies have struggled to arrive at an acceptable definition of terrorism. At one point the author seems to come near the definition of terrorism but fails to penetrate into its meaning.

He has displayed a good knowledge of acts of terror in his book, but the question the difference between terror and terrorism has illuded him. The Texts of Holy Terror is an entire Chapter devoted to the kernel of the book. When Jews had no home to settle down, Moses had no hesitation to order his followers to drive out the Canaanites and usurp the land. The Lord will be the God of Jews. If Canaanites resisted, the Jews "shall smite them, and utterly destroy them, thou shall make no covenant with them, nor show mercy to them. (Deuteronomy) Moreover, Moses recommends them that they are holy people unto the Lord. The God has spoken them to be special people."

So the Jews were chosen, elected people. At the instance of Prophets

Moses or Jhashu they killed Canaanites and drove them from the land. This is terrorism. It was not a single act. It was a series of transactions, a sort of act with a particular people. At a given moment a single man may use terror for a specific purpose, say for example, theft. That is not terrorism. Some times a group of people may attack a house for goods. That is dacoity. Though they have used terror it is not terrorism. Terrorism is an act by an individual or group of people for a specific purpose not connected with people in general. The famous distinction between law and order in detention law must be borne in mind. It will to a great extent understand the distinction between terror and terrorism. It is not a distinction without a difference.

The distinction between the two difficult but not un-understandable. The Russian Revolution was based upon terrorism. Musharaff insists that terrorism in Kashmir is freedom struggle. Unknown persons are usually, not always, targets. In the case of Irish Republic Army (IRA) it was unadulterated terrorism. They were in fact fighting for the freedom of Catholics in Northern Ireland. As a part of their activities they blew up the boat of Lord Louis Mountbatten who had resigned from all active politics. One does not know whether IRA wanted to kill Mountbatten. The target might be unknown. Since it was an inseparable part of their total fight, Mountbatten's killing can be called a part of terrorism. Whether one likes it or not, if it is accepted, Jammu & Kashmir is a part of India, what the Kashmiri militants are doing is nothing but terrorism.

Terrorism of Marxists in India is opposed by CPI (M). Maoists known by various names such as Naxalites have unashamedly indulged in acts of violence almost since the beginning of Indian Independence. The Telengana uprising was put down almost in the beginning. Maoism and Telengana movements were both exercises in terrorism. The object of both movements was to establish "Red" rule in India and both have failed. As many books even textbooks have pointed out, no armed insurrection can be successful in modern world as all State Governments are heavily armed. (Cuba is an

exception).

A single act of terror can be successful. Andrew Smith, the author of this book, has given details of armed activities that have gone and are going around the world. He has dealt with, for example, Ku Klux Klan, the Irish rebellion, the problem of Palestine, Revenge of Islam, etc. But it is a pity that Mr. Smith has failed to analyze the essentials of terrorism. As someone examining terrorism has said, the terrorist has one target which he knows and which you do not know. Why is terrorism present in the world when terrorists know very well it can never succeed? Osama knows that Islam cannot be world religion as is depicted. This is where the experienced historian, has failed.

An Anatomy of Terror. A History of Terrorism.

Andrew Smith, Pan Book



The Road to Buddhism

“I was born a Hindu but I shall not die a Hindu.”

Thus thundered Dr. Ambedkar in 1935 at Yeola (Nasik District, Maharashtra). Yet he took 21 years to convert to Buddhism. On 14th October, 1956, at a mass ceremony held at Nagpur he converted to Buddhism along with thousands of followers. It was Dassera, a *seemolanghan* day, that is the day on which you cross the border.

Dr. Ambedkar himself had crossed the border of his community nearly 40 years earlier. Education was unknown among the Mahars, a community in which Babasaheb Ambedkar was born. Graduating from the school was unknown among the untouchables in those days. So, naturally, a felicitation ceremony was held when Ambedkar passed the matriculation.

In the meeting a Brahmin teacher, Keluskar, presented a copy of a book on Buddha's life written by him to Ambedkar. Keluskar had seen Ambedkar engrossed in Charni Road Gardens (now S.K. Patil Udyan) in studies in evenings and thus had developed a liking for the boy. Incidentally, in Ambedkar's life on some occasions Brahmins have played critical role. A Brahmin teacher gave the name Ambedkar (originally it was Ambavadekar). A teacher showed that Chavadar Tal (Sweet Lake) which has been “polluted” by untouchables was good for a Brahmin even before it was purified by “panchagavya” by jumping into the lake. In school the Brahmin teachers treated Babasaheb civilly and courteously. There is no

account of even a single incident where Babasaheb was treated unfairly by any Brahmin teacher. Babasaheb himself has at one place mentioned that earth is crucial, not birth. Brahmanism should be fought, not Brahmins. This was the robust, healthy approach of Ambedkar whose second wife was a Saraswat Brahmin.

Be that as it may, it was Keluskar who persuaded Maharaja Sayajirao Gaikwad of Baroda to send Ambedkar abroad for higher studies and Ambedkar gave full justice to it.

As mentioned earlier, Ambedkar made the announcement that he would not die a Hindu. Was conversion to some other religion in his mind? The actual conversion took place in 1956 21 years after leaving Hindu fold was announced. Why did Ambedkar take 21 years to implement his decision?

Though Ambedkar had attraction to Buddhism there is no indication that he wanted to be a Buddhist. In the second Round Table Conference, which he attended (and Gandhiji also did), he pleaded for separate electorates. It was Ambedkar's conviction that mere reform of Hindu religion was not enough. What was needed was political power for untouchables. When Gandhi was in Yerwada Jail in 1932, British Labour Prime Minister announced the communal award by which untouchables were given separate electorates.

Gandhi reacted. He did not want untouchables to go out of Hinduism, though he wanted untouchability to go. In order to get separate electorates undone, Gandhi went on a fast. Even at this stage Ambedkar could have embraced another religion. He did not do so because he did not have that in mind. Yeola declaration was yet to come. As is well known, Gandhi ended his fast. Ambedkar had been persuaded to agree to Gandhi's terms. So Yerwada Pact, which abolished separate electorates but seats for untouchables would remain with joint electorates. Reserved seats for which Dalits alone would contest with joint electorates voting for them. Untouchables nominated by the Congress could contest reserved seats number of which was larger than those if separate electorates were in place.

Ambedkar was at that time thinking more of power than of Dharmantar. For Gandhi, of course, untouchables were a part of Hinduism, though he piously hoped, untouchability will go.

India is a land of many religions, any of which could have been selected. But it appears that till Yeola declaration in 1935, Ambedkar had a resolve no change religion. From a close reading of his writings and speeches, one gains an impression that he still wanted to remain in Hinduism and retain what he regarded his culture. Once, however, his decision to give up became known, there was competition among different religionists to claim status of Scheduled Castes among them. K.L. Gauba, a Muslim leader, telegraphed Ambedkar that the whole of Muslim India was ready to welcome and honour him and the untouchables, and promising full political, social, economic and religious rights. The then Nizam of Hyderabad offered 50 million rupees if Ambedkar could undertake to convert the whole untouchable community to Islam. On behalf of the Sikhs, the then Vice President of the Golden Temple, Managing Committee, telegraphically invited Dr. Ambedkar into Sikhism. Bishop Bradley of the Methodist Baptist Church, Bombay, was more honest. Though welcoming Ambedkar and his followers to embrace Christianity, they should be real Christians only if they experienced real change of heart. Maha Bodhi Society of (now) Kolkata did welcome the conversion into Buddhism but deplored abandonment of Hinduism.

Thus there was no clear choice before Ambedkar. You must remember that any conversion would not affect him alone but lakhs of his followers because the latter would blindly follow to get rid of untouchability. Unfortunately, there was no able assistance of Ambedkar with whom he could discuss and debate and get a feedback.

Within two years of Yeola conference, World War II broke out and everyone's mind was occupied. Within a short time Ambedkar became a member of Vice-Roy's Executive, first in charge of Labour

and then as in charge of Law. Things were moving almost rapidly. Gandhi launched first individual Satyagraha in 1940 and in 1942 Quit India movement. Gandhiji and other leaders of the Congress were imprisoned. The world would have looked at it as opportunistic if Ambedkar, taking advantage of the absence of these leaders, had launched conversion movement. Then followed negotiations, independence, partition, and mass movement. Ambedkar became Law Minister and the Chairman of the Drafting Committee of the Constituent Assembly. It must be regarded as a wonder that in such turbulent times, Babasaheb was cool and collected.

But his mind was not idle. Even before the Yeola conference he had named his newly constructed house as “Rajgriha”. Rajgriha was the capital of King Bimbisara who was a lay disciple of Buddha. This shows his attachment to Buddhism whose details he had not yet worked out. Hence, probably the hesitation or vacillation before embracing Buddhism even after the Yeola declaration.

Looking back, it must be said that even during his student days Ambedkar was moving in the direction of Buddhism, Buddha and his teaching had an attraction for him. “Manusmriti” was burnt with a view to attract the attention of Caste Hindus. Sanghrakshita, author of “Ambedkar and Buddhism”, says in paragraph 99 that the truth of the matter was that for Ambedkar and his followers “the question of renouncing Hinduism was a difficult and complex one.” If untouchability were abolished, they would probably remain Hindus partly because they were accustomed to Hindu culture and worshipped Hindu Gods.

In Kavitha, a village in Gujarat, the Caste Hindus penalized the untouchables for daring to send their children to school. This infuriated the untouchables. In 1936, at a conference in Pune (then Poona), Ambedkar announced that even God will not be able to dissuade him from renouncing Hinduism.

Later in an interview with a Buddhist monk, Loknath, Ambedkar

promised to consider carefully the question of converting to Buddhism which means he was not at that time determined to embrace Buddhism.

But his attachment to Buddha and Buddhism was visible. In 1946, he started a College in Mumbai (then Bombay) named it after Siddharth. Another building for the college was named Buddha Bhavan. He was impressed by "Essence of Buddhism" written by P.S. Narasu of Madras and got it reprinted at his own expense. In Aurangabad, a college started by him was named Milind College. In 1948, his elaborate article "Buddha and the Future of Religion", containing an analysis of Hinduism, Christianity, and Islam was published as an article in the journal of Maha Bodhi Society of Calcutta, affirmed his faith in Buddhism. Even today it remains an excellent exposition of Buddhism and is a challenge or invitation to Buddhist nations.

Dr. Ambedkar had many choices before him. Earlier it has been mentioned that other religionists wooed him. Islamist population would have been doubled. Christians would have increased in population from 3% to 5%. Sikhism would have spread throughout the country instead of being confined to Punjab as of now. Babasaheb studied pros and cons of different actions despite the fact that Buddhism remained first choice.

Studies made by him through his representatives sent to different parts of India convinced him that by conversion to any of these religions would end untouchability but not segregation. Dalits converted to Christianity were made to sit on separate pews in the church. Their graveyard was different. Their new surnames showed from which caste they had converted. In Islam there were schisms. Sikhism was too difficult for his followers with its five K's.

Dr. Babasaheb Ambedkar visited Ceylon (Sri Lanka) and Burma to observe the form of Buddhism practiced there. He was more than ever convinced that a moral, rational religion like Buddhism was the one for him and his followers. Dr. Ambedkar was an atheist, though

he did not announce it from the housetop. In all his speeches and writings he never took the name of God.

Thus by 1956, he had travelled a long way from 1935 inexorably towards Buddhism, though as he interpreted it. He understood religion to mean morality, freedom, liberty and equality. These only Buddhism possessed. As Gail Omvedt of Nehru Museum, has said:

“He chose to convert to Buddhism partly out of desire to provide a religion for his people that would be binding and would serve as a basis for morality and identity; a religion that would be truly Indian because it would represent the most equalitarian, rational, and ethical strand in India's post.”

He had passed by several milestones on the road to Buddhism. His “Karmabhoomi” and “Punyabhoomi” remained Bharat.

“

Curse of Timidity

When we speak of social evils, we are in the habit of considering only physical and physiological ones, and more especially, alcoholism, syphilis, and tuberculosis. Evidently these are not by any means small evils and it is certainly to fight them courageously, and this is no easy task either, considering their prodigious development in present society, whose machinery becomes more complicated everyday.

In my opinion, however, there are also social evils of a moral nature, which though their manifestations are less violent, are at least as harmful as those I have mentioned above. I think one of the most important of these is the mental disease called timidity, which is pregnant with evil consequences for individuals as well as for groups. What evil does it not beget, with its deep and varied manifestations!

RD Karve,
Reason, July 1934

”

Portrait of a Prophet

In 1997, 62 years after the inauguration of the building of the United States Supreme Court, some Muslims woke up to find that Prophet Mohammed has been engraved on a wall inside the building. No Islamism raised its head, no protests were made, and no demonstrations were held against the “blasphemous” act of depicting the prophet of Islam which is prohibited.

The World of Moslems could not be unaware of the fact that a statue of Prophet Mohammed was inscribed in the frieze in the U.S. Supreme Court. It must be remembered that every visitor to the U.S. Supreme Court gets a fact-sheet regarding the building. Till 1997, the fact-sheet mentioned that in one friezes, Mohammed is shown as a law giver, though it is not so mentioned in the frieze.

The architect who constructed the friezes was not aware of the prohibition of depicting portrait or a picture of Mohammed. Since he was dealing with a building concerned with law, he regarded, naturally, the figure of Mohammed was appropriate. Other law givers shown in the frieze which is on the north side of the Court include King John (Magna Carta), William Blackstone (Laws of England) and John Marshall (of Marbury v. Madison fame).

The frieze on the south side shows figures (though allegorical) of Hammurabi of the first Code in the world, Moses and Solomon, and Confucius. It must be remembered that all the figures shown are imaginary inasmuch as during those days there was neither photography nor the art of painting portraits in days when these

prophets lived. The figure of Mohammed with a sword in hand is naturally imaginary. The American sculptor, Adolph Alexander Weinman, did his work in good faith and respectfully. The choice of law givers' figures was also appropriate. He could not have imagined the storm that would arise in 1997.

Muslims in U.S. took objection to Mohammed being shown in a figure as it was opposed to Islamic injunction. A group of Muslims in U.S. offered to foot the bill to alter the frieze and replace it with a piece of marble bearing a quote from Quran pertaining to justice.

There were demonstrations in far off Srinagar. An Islamic religious society, Raza Academy, in Mumbai wanted to start a mass movement. They sent a memorandum to the then President, Bill Clinton, calling upon him to remove the frieze, as if he had any authority to do so. The memorandum said that the Islamic Shariat prohibits photography; nor does it allow the making of any portrait, or sculpture of any living animal.

The prohibition is contained in the Old Testament. It is one of the ten commandments originally given to Jews through Moses. Some Christians even now follow the said injunction. Jehovah witnesses do not salute a flag, even of the nation in which they live. It is deeply held religious belief. When Hollywood wanted to bring a film on Prophet Mohammed, without even showing him, Islamic nations protested.

It was pointed out on behalf of the Supreme Court that the sculpture was not an idol worship. William Rehnquist was then Chief Justice. The friezes, carved of in original Spanish marble by sculptor Adolph Weinman, only show allegorical figures and procession of 18 law givers. Mohammed is only one of them.

Chief Justice William Rehnquist pointed out that it would be "unlawful to remove or in any way injure an architectural feature in the Supreme Court building". It was so provided in a Statute of 1949. It declares that it is "unlawful to step or climb upon, remove or in any

way injure any statute, sat, wall, fountain or other erection or architectural feature or any tree ... in the Supreme Court buildings or grounds."

Chief Justice Rehnquist pointed out that the depiction of Mohammed was intended to recognize him, along with others, as an important figure in the history of law. The depiction was not idol worship. Showing a sword in his hand is in tune with the theory that swords are used as symbols of justice. In the four friezes in the Court there were swords in 18 figures. The sword in the hands of Mohammed was not intended to show Islam as an intolerant religion.

The frieze remained but the literature altered. It says: The figure above is a well-intentioned attempt by the sculptor Adolph Weinman, to honour Mohammed and it bears no resemblance to Mohammed. Muslims generally have a strong aversion to the sculptured or pictorial representation of their Prophet."

Though New Testament commands the Jews not to worship a graven image, the said command is also followed by Muslims. It is not a command to people other than Jews and Muslims. Jews have not taken umbrage at others depicting a God or prophet, Muslims hate any one drawing a picture of Mohammed.

Even in Islamic architecture you will find humans are not depicted. Decoration is done by painting flowers and trees. Orthodox Muslims go still further. Wahabi's of Saudi Arabia do not erect tombs for their dead. Tomb, according to them, represents idol worship. There are no tombs in Saudi Arabia. When a King or Prince dies, he is buried in an unmarked grave.

Picture of Mohammed is prohibited. I often wonder how the founder of the world religions the Prophets looked in real life. No contemporary picture is available. From all accounts Mohammed was an unassuming, simple man. He was so honest that his services were sought by the tradesmen of his time. He swept his floor, lived

frugally, on dates. Like Arabs, however, he was fond of perfumes.

Ali, Mohammed's son-in-law, describes the latter when he was forty five:

“middle stature, neither tall nor short. His complexion was rosy white, his eyes black, his hair thick, brilliant, and beautiful and fell to his shoulders. His profuse beard fell to his breast ... There was such sweetness in his visage that no one, once in his presence, could leave him. ... Before him all forgot grief and pain.”

(“Age of Faith” by Will Durant, p.163).

This is the Prophet's picture in words.


How did the Buddha, another Prophet look? His portraits and statues are freely available. They are sold on the roadside in Bangkok. Statues made of plastic and clay can be bought. The standing Buddha, the sitting Buddha, the sleeping Buddha, the Buddha in different poses. The Buddha, in his lifetime, had prohibited the making of idols. And yet, the Buddhists had erected a large number of images of the Buddha.

Do the images and idols you see today bear any resemblance to the historical Buddha? The Buddha lived nearly one thousand years before Mohammed and obviously no contemporary picture is available. Today's idol disclosed a well-balanced, sculpted body. Though the Buddha was originally a prince, when he started his ministry he was nearly forty. The picture of Buddha in all probability is fashioned after a Greek hero. When did he get his crown like tresses? The Buddha was a monk and like monks, he should be clean shaven. All Buddhist literature tells us that he cut off his tresses when he started on his quest for enlightenment. Asit, a rishi, had commented upon Gautam's long ears, almost touching the shoulder, a sign of great men. That alone seems to have been copied by today's makers of Buddha's idols and pictures.

Jesus came on the scene nearly five hundred years after the Buddha and six hundred years before Mohammed. Comments on the

unavailability of any contemporary picture or idol of Jesus are the same as in the case of Mohammed and the Buddha. Jesus was the son of a carpenter and he must have helped his father in his younger days. He must have had, therefore, good physique. The statue of Jesus on crucifixion is today in almost every church and chapel and many Christian houses. Probably the statue of Jesus bears a close resemblance to the historical Jesus. Jesus was crucified when he was 32 or 33. But he is seen as a bearded man, probably because in those days it was customary to keep a beard.

Thus we see that the pictures or statues of these two great prophets are imaginary or allegorical as Chief Justice William Rehnquist pointed out in the case of the figure of Mohammed in the frieze. However, the pictures of Muslim Statesmen and Kings are seen everywhere. Jinnah's portraits hang in Government offices, in Pakistan. Portraits of Mogul Kings were painted and their pictures are freely printed in history text books.



Was Veer Savarkar Really “Veer” ?

For generations the Hindutvavadis have venerated Vinayak Sawarkar as Veer Savarkar. The writings of Savarkar, especially in Marathi, show great valour and heroic sentiments. In language that is both beautiful and brave, the writings of Savarkar, in prose and poetry, display heroic qualities but of Hinduism. Savarkar wrote an essay, “Hindutva” (Hinduness) in which he tells us who are really Hindus. Merely by birth in India, one does not become a Hindu. Hindu is one, says Savarkar, whose land of worship (“Punya Bhumi”) is India; whose history, trials or tribulations are centred around in Hindustan. If one looks towards Mecca or Jerusalem for religious inspiration, he cannot be a Hindu as defined by Savarkar. Thus Muslims and Christians whose basic holy places are outside India are not and cannot be called Hindus. The Hindutva idea is alien to them. This is in sum, Savarkar's idea of Hindutva a term which is not the same as Hinduism. Buddhists and Jains whose religions are not Hindu are yet embraced by Hindutva. It is almost a mystical concept.

Savarkar did not and could not foresee Hindu Diaspora or even Muslim Diaspora. Large number of Hindus have migrated to U.S.A. and have acquired citizenship of America. Their ethos is it included in Hindutva? The largest number of Buddhists are outside India in several East Asian countries. Can we say that they must display Hindutva? It will be an act of treason if they love India to the exclusion of the countries whose citizens they are. In his book “First War of Indian Independence” (which is about 1857) Savarkar speaks

of joint Hindu-Muslim revolt. But that was long before the birth of Hindutva in Savarkar's mind.

Vinayak Damodar Savarkar, later also known as Tatyasaheb Savarkar, was born in 1883 in a town called Bhagur in Nasik District of Maharashtra. Even his biographers do not speak of his brilliance as a student. But his later writings, both prose and poetry, display of unusual command of Marathi language which continues to inspire Maharashtrians. It may be stated incidentally that on an occasion in England where he had gone for studies he wrote a poem asking the ocean "to take me to my motherland". In song frame it has been sung by Mangeshkar siblings and it has become immortal in Maharashtra. In the song he tells, among other things, that mother's cottage is better than a palace.

It has been recorded that once in his student days he pelted stones at a mosque in his town. He exhibited anti-Muslim feelings, even in his college days. He went to college in Pune. He organized groups of Hindus whom he inspired to be good and strong Hindus.

With the help of one Pandit Shyamji Krishna Verma, a strong believer in Hinduism, then resident of London, Savarkar went to England for education. An activist of "Abhinav Bharat", a revolutionary organization for freedom of India, Savarkar took part in several activities. Dhananjay Keer mentions that he was, in 1908, convicted for outraging the modesty of an English girl and spent four months in jail as a consequence. Savarkar also displayed strong patriotism inasmuch as he studied Mazzini and translated one book on Mazzini which came to be published in Nasik and enjoyed an uncommon popularity among Maharashtrians. That, Savarkar was a patriot is not disputed.

Madan Lal Dingra was hanged for assassinating Sir William Carzon Wylie who was the eye and brain of India House. Savarkar had inspired Dingra to do the act. Savarkar had also sent pistols clandestinely and one of them was found to have killed A.M.T. Jackson, the Collector of Nasik. The pistol which killed Jackson was

traced to Savarkar who was arrested in London under Fugitives Act and brought to India. I have refrained from describing the activities of Savarkar in England. Suffice it to say that those activities show his patriotism and intelligence. One thing, however, must be noted. It was never Savarkar's hand that pulled the trigger at any time. He inspired but never acted. While Savarkar was being brought to India in a ship, he jumped in the sea through a port hole. That was in France. However, he was captured and brought back. This was the only physical act of Savarkar in the cause of freedom. What he did was undoubtedly a daring act.

Ultimately he was tried, among others, for the murder of Jackson and sentenced to life imprisonment. Also in another case he was sentenced to life imprisonment. Those days, life imprisonment meant 25 years which in Savarkar's case meant 50 years. It was a fearful prospect which would have broken any man. If it broke the courage of Savarkar, one cannot blame him.

This is where the act of so-called bravery of the person begins. He was transported to Andaman Island to serve his sentence in the awful cellular jail. This was regarded, among the Indians, as "Kalapani". It was the forced destination of hardened criminals.

Hard physical labour awaited Savarkar. He was received at Port Blair of Andaman on July 4, 1911. He was 28 years old. Within two years thereafter, Sir Reginald Craddock, Home Member Viceroy's Executive Council, met him. Sir Reginald's note recorded Savarkar's plea for mercy. On November 14, 1913, Savarkar had written to the Government: "I am ready to serve the Government they like ... Where else can the prodigal son return but to the parental doors of the Government?". In reply to a question in the Legislative Council on March 22, 1920, the Home Member, Sir William Vincent said: "Two Petitions were received from Vinayak Damodar Savarkar one in 1914 and another in 1917 through the Superintendent, Port Blair. In the former he offered his services to the government during the war in any capacity and prayed that general amnesty be granted to

all political prisoners. The second Petition was confined to the latter proposal. In the Petition dated November 23, 1913, he wrote: "In the end, I remind your honour to be good as to go through the Petition for clemency that I had sent in 1911 and to sanction it for being forwarded to the Indian Government". He had in the same letter said: "Therefore the Government in their manifold beneficence and mercy release me, I for one cannot be the staunchest advocate of progress and loyalty to the English which is the foremost condition of that progress." The Government which he had decided not to serve became a Government of beneficence and mercy. The rebel became a person of loyalty. Continuing further he said: "Moreover my conversion to the Constitutional line would bring back all those misguided young men in India and abroad who were once looking at me as their guide."

"Veer" means, brave, hero, gallant, warrior as per Sanskrit and Marathi dictionaries. This Veer gave apologies as many as five times.

After being brought back to India, Savarkar was lodged in Yaravada Jail. It was when he was in this jail that he was to be conditionally released. On January 6, 1924, he was released subject to certain conditions. Two of them were as follows:

1. Savarkar shall reside in Ratnagiri district and shall not go beyond the limits of that district without the permission of Government or in case of emergency of the District Magistrate.
2. He will not engage privately or publicly in any manner of political activities without the consent of Government for a period of five years, such restrictions being renewable at the discretion of Government at the expiry of the said period.

The option to renew the terms was with Government and not with Savarkar who accepted the conditions.

In 1937 Congress formed in Bombay. It was the same Congress upon

whom Savarkar had heaped abuses all along. The Government, in their “beneficence and mercy” relaxed the conditions of detention. Savarkar was free. His followers were naturally jubilant.

But on April 4, 1950 Savarkar was arrested, unjustifiably, under Public Security Measures Act (law of detention). A habeas corpus Petition was filed by Savarkar's son, Vishwas, and it was heard by a Bench of Chief Justice Chagla and Justice Gajendragadkar. After taking instruction from the Government, the Advocate General, C.K. Daftary, who was prosecuting Counsel in Gandhi murder case, informed the Court that the Government would release Savarkar if he gave an undertaking that he would not participate in politics. Undertaking was given by Savarkar's Advocate on his behalf and the Court ordered the release on that undertaking. This was the last condition which Savarkar accepted.

How did he came to be known as Veer Savarkar? Who gave him that title? I am not able to find in any published literature an answer to these questions. However, personal inquiries made by me have revealed that Mrs. Bhopatkar, the editor of “Bhala”, a Marathi periodical, dubbed Savarkar as Veer. Somewhere on the road, the word “Swatantrya” was added and thus Savarkar became Swatantrya Veer Savarkar” Freedom Fighter Savarkar who did not do anything for the country after 1913 till his death in 1966.

Nelson Mandela spent twenty three years in jail and refused to admit that he would not take part in politics. Still we do not call him Swatantrya Veer.

I have not dealt with other aspects of Savarkar's life except his apologies and undertakings which are relevant to the title of Swatantrya Veer. It must be admitted that large number of Maharashtrians, especially Brahmins, adored him. In Mumbai when Sangha Pariwar was in power in Municipal Corporation, a road was named after him. That road is one of the longest roads in Mumbai and it runs into 3 postal districts. On this road statue has been erected, probably the biggest memorial in India, named after

Savarkar. During the time when Manohar Joshi was the Speaker, an oil portrait of Savarkar was unveiled in the Central Hall of the Parliament, but Mahatma Gandhi's statue sits in the open braving the sun and winds. ■

“ **Rationalism**

Rationalism is the belief that the world we live in can be understood by the use of Reason. The rationalist argues for a rational approach to human problems, proposes reasoned alternatives to religious dogmas, aims to advance a secular system of education and wishes to defend freedom of thought and civil liberties.

Reason is a tool for solving problems, creating strategies, debunking nonsense and undermining dogmas. However, feeling, compassion and imagination are also important in driving and enriching our actions and thoughts. The strength of reason is that it is a powerful tool of understanding and a means of arriving at rational decisions. Human choices are not always made with complete rationality, but it is preferable to aim for the reasonable than to choose without thought.

The scientific process is powered by the use of reason. Much progress has come through scientific understanding, although the application of science, such as atomic explosions or genetic modification, can sometimes be dangerous. Imagination and empathy enable us to envisage the outcome of the application of science. The arts too can enlarge our concept of being human.

Rationalists have questioned the claims of religious thinkers and religious institutions. They may be agnostics or atheists, but they doubt the claims of the supernatural on the grounds of lack of reasonable evidence. The attitudes and injunctions of religions seem unconvincing when examined in the light of reason.

Rationalists envisage that the use of reason will lead to human progress - even if not in a steady upward course. Rationalists reckon that the sum of human progress may be increased by the careful and consistent use of reason.

”

Astrology and Astronomy

Readers of “Radical Humanist”, it is assumed, are generally rationalists and do not believe that supernatural events influence human life. They obviously do not believe in astrology. This should be true of all educated people. But, alas, all educated people are not rationalists. A scientist will go home and protect himself from the evil effects of eclipse and take a bath after the eclipse. There are educated people who empty vessels of all cooked food, instead of keeping it in the refrigerator, before eclipse because it is believed that any food which has received “radiation” of the eclipse is inedible.

Though, it is assumed, humanists and rationalists do not believe that planets and stars influence human affairs, they are not always able to tell why they do not believe. As rationalists, they should have a sound, rational, scientific basis for not believing, which they do not always have. They must possess knowledge as to why the planets and stars have no influence on human affairs. This is my excuse in writing this article.

Concise Oxford Dictionary (COD) defines “astrology” as the study of movements and relative positions of celestial bodies interpreted as having an influence on human affairs. Without the assumption that such movements have influence on human affairs, the study would be a part of astronomy which the COD describes as the scientific study of celestial bodies. “Scientific study” means an investigation according to rules for performing observations, drawing inferences

and, if necessary, performing experiments.

“The fault, dear Brutus, lies not in our stars but in ourselves”, thus wrote Shakespeare living in 16th Century. Apparently, the Bard of Avon did not believe in astrology, though Julius Caesar and Brutus, living in centuries earlier believed. The belief in astrology was or is limited to India or other eastern countries. It was at one time widespread in Western countries, though now it is not. It is still accepted in Africa on a wide scale. In India, or course, it is very popular even among the educated. As readers must have noticed, almost every newspaper carries weekly forecast. The forecasts are in vague language and two forecasts do not agree.

It is, therefore, instructive to learn as to how astrological forecast became the fashion of the day. It is necessary to know the basis of astrology even for those who do not believe in forecast. Carl Sagan has mentioned that in America it is a matter of polite conversation in parties. Nobody adjusts his programme as dictated by forecasts. Astrology has existed for thousands of years. But theories about how the planets influence, assuming they do, the earth and earthlings have changed from era to era.

Stars and planets have served as guides to travelers on sea and land when there were no maps. The stars were at some time so important that we called them “devas” (gods). Nakshatras were also important for the cultivators. Later, when five planets, then known, wandered through Nakshatras. They also received their status as “devas”. The Nakshatras, the “grihas” (planets) and their conjunction were thought to be able to produce good or evil effects, thus giving rise to astrology.

The members of the priestly class (Jyotishis) who were able to predict the movement of Nakshatras and planets were shrewd persons. Originally the predictions were for the whole world, as it originally was, and later they were narrowed down to apply to individuals. Gullible people, out of fright or curiosity, believed these Jyotishis. It was not difficult to work upon the minds of weak persons. For

example, the sun became an object of worship because the sun was thought to be Dev (god). Even now many morning walkers can be seen to do “pranams” to sun which is regarded as “Surya Narayan” in Hindu mythology. Even a High School student knows that sun is a star made up of hydrogen and helium gases in solidified form.

It is advisable to know the size of the universe and the distances between the earth, the stars and planets. Apart from the worshippers of the sun, generally the people will be surprised to know that the sun is only a star the only star about which we have some knowledge. It is one of a billion of stars which are millions and millions of miles away from the sun and we know little about them. It is sufficient to realize that all the planets we know revolve around the star sun and the planets together with sun form what we call solar system or solar world. I am of the opinion if you know even elementary factors of solar system, you will disbelieve astrology. No astronomer will ever believe in astrology. No astrologer, even having elementary knowledge, will try to understand the significance of astronomical facts. Sir Julian Huxley has, in his autobiography, mentioned that our universe is like pebbles on the seashore and man is a creature in a pebble.

I am taking the liberty of mentioning few facts of astronomy for the purpose of understanding the claims of astrology. (Those interested in greater details may fruitfully refer to books on Astronomy by Patrick Moore, former President of British Astronomical Association, and Iain Nicolson, a Senior Lecturer in Astronomy. Both books are with illustrations). What is being stated here is accepted knowledge of astronomers.

Formerly it was believed that the earth was the centre of the universe and that planets and stars revolved around it in a circular motion. Copernicus concluded after a study that it was the sun that was at the centre of the universe and that planets revolved around the sun. Subsequent to his death in 1543 C.E., Galileo, an Italian professor of mathematics, confirmed the view of Copernicus. After him, Kepler

explained that the universe could be explained and better understood if the sun is at the centre and the planets moved around in orbits which were not circular, but elliptical. Why? Newton explained that it was because of gravitational force of the sun. This is not the place for elucidating Kepler's laws and Newton's principles.

The extant astronomical knowledge shows that there are nine planets of various sizes and masses which are revolving around in various orbits at different speeds. Earth revolves around the sun in an elliptical orbit in approximately 365 days giving rise to a year while it rotates around its own equator in approximately 24 hours giving rise to a day. The astronomers have calculated that the earth is 91 millions of miles away from the sun. Two planets, Mercury and Venus, are nearer to the sun 36 and 67 millions of miles, respectively. Saturn (Shani), which has a prominent place in Hindu mythology, rotates at 10 hours, revolves around the sun in 29 years and is 886 million miles away from the sun. The other planets are still far away from the sun. Readers will note the vast differences of the planets from each other and from the earth. Does it stand to reason that they can have any influence on man who is one of the billions and billions of creatures on the earth?

There are better reasons why belief in astrology cannot be sustained. According to Parasar School of Astrology, which is the most popular school on astrology, there are nine planets which include the sun, the moon, Rahu and Ketu. It is now known that the sun is a star, not a planet; the moon is a satellite of the earth and not a planet; and Rahu and Ketu do not exist at all. Yet these entities are said to exist and influence human beings. Besides, the astrologers did not take into account newly discovered planets Uranus, Neptune and Pluto. These planets have been knocking in vain at the doors of astrologers for recognition.

An ill-founded belief, particularly in South India, is that "Rahukala" is inauspicious and humans should not do any work at that time. All the trains, planes, buses plying at that time should be ill-fated. It is

ridiculous to imagine that a train should wait for the green signal of astrologers to move. Imagine the scenes at the bus stands, railway stations and airports.

I have given some distances above. The distances of stars are so vast that they are measured in what is called a light year. Light travels in space at a speed of 186,000 miles per second (300,000 Kilometres). Light year means the distance light travels in one year. On this scale, it is seen, the nearest star is over 4 light years away. An interesting example has been given by Prof. K.D. Abhyankar of Osmania University, Hyderabad. The largest planet in the solar system is Jupiter which is 43 light minutes away and the farthest planet, Pluto, is $5\frac{1}{2}$ light hours away. If an astronaut goes to Pluto and communicates with us, it will take five and half hours to reach us through radio message. The stars are further away. Does it stand to reason that stars and planets can have influence on us?

Prof. Abhyankar points out that our solar system is insignificant compared to the universe. The earth on which we live is a tiny speck in the solar system, says Prof. Abhyankar, man is nothing compared to the earth physically. Man is intellectually among the topmost creations of nature. We should see to it that we use our intellect in rational and logical thought and not fall prey to superstitious beliefs which are remnants of an earlier, less developed, stage of civilization.

Let us concentrate on earth instead of all planets. The earth, as seen earlier, revolves around the sun in an elliptical orbit in about 365 days. This elliptical orbit is hypothetically divided into 12 parts, constellations. The Saturn stays in each constellation for $2\frac{1}{2}$ years. The Saturn travels $29\frac{1}{2}$ years around the sun. If one is born when Shani is in line with the constellation under which one is born, the constellation preceding and following the constellation under which one is born are significant according to Indian astrology. The time in the constellation when one is born and the two constellations one preceding and one following is $7\frac{1}{2}$ years that is Sadesat in Indian languages. This period of $7\frac{1}{2}$ years is the most dreaded period for

Hindus. It is hurtful and potentially dangerous. Please think about this.

The existence and sustenance of life on earth is made possible by the star sun. The sun is not too far away; otherwise we would be frozen. It is not too near, lest we be burnt. This fact is a far cry from the claim that the star affects you otherwise. Horoscopes are charts containing the pictures of constellations, including the constellation under which you are born. Despite the distances of constellations and stars shown above, people try to match horoscopes for marriages. It is safer to have medical certificates of intended spouses to check whether they have HIV or Aids.

Thousands of people perished in “Kanishka” plane disaster, Latur and Gujarat earthquakes, Andhra Pradesh cyclone, Tsunami disaster, etc. Were they all born under the same constellation? The effect of planets (grihas) can be seen by the fact that in February, 1982, eight planets were in conjunction (Ashta Griha Koot), but nothing untoward happened, despite the astrological predictions of doomsday.

In France, one institute sent to about 200 persons a horoscope and a statement of events for the previous five years, requesting them to inform whether the horoscope represented their life and whether the statement contained the real incidents in their life. Ninety percent of the correspondents agreed with the horoscope and the statement. What is unusual about it? It was the same horoscope and the statement faith played the trick.

Michael Gangerin, in a book, has claimed that “astrology is a faith that speaks the language of science and a science can only find the justification of its principles in faith.” Astrology is built upon faith. Is it a science? Science is never built upon faith.

Why is astrology accepted by the people? Once Barnum, the owner of a circus, explained that his show consists of several items and there is at least one item which is liked by some. Similarly, astrological

predictions and the weekly forecasts. “You are very brilliant but use your brilliance”. This vague forecast is accepted by every reader. So the astrology is born.

At some time there was a craze for Vedic astrology. A close reading of Vedas discloses that nowhere the Vedas contain any reference to astrology. Nor do the Upanishads. One cannot help referring to the fact that University Grants Commission invited the Universities in India to start astrological courses. This was when Murli Manohar Joshi of the BJP was HRD Minister. Fortunately, most of the Universities declined the invitation.


Is astrology a science? The answer is an emphatic “No”. Astrology makes use of no basic rules. Are failed predictions accepted disproofs of theory, as true scientists do? Astrologers have probably not heard of Copernicus, Galileo, Kepler and Newton and the knowledge accumulated over centuries. It can be argued that weather forecasts often are found to be false or inaccurate. But in weather forecasting, a complex calculation of various conditions is involved. Weather forecasters admit that sometimes they go wrong. Do the astrologers admit similarly? There is no experimentation or testing of facts. There can be only one science of a subject for the whole world whereas there are many systems of astrology which quite often contradict each other.

Why do some people believe in astrology? Firstly, astrology has psychotherapeutic effect which brings solace to human mind. I have already referred to Barnum effect. If you fail in anything, you can always blame the stars. If you succeed, point out what is good in the forecast. There is always, in each forecast, both good and bad. The age old refuge of the astrologers is “The stars only compel; they do not compel.” Even a Papal advisor Francesco Guicciardini bemoaned: “How happy are astrologers if they tell one truth to hundred lies, while other people lose all credibility if they tell one lie to hundred truths.”

“Stargazing and astrology, forecasting luck or unlucky events by

signs, prognosticating good or evil, all these things are forbidden”, said Buddha. Vivekananda said that astrology is a sign of weak minds. Stephen Hawkins in a speech in Delhi observed that the reason most scientists don't believe in astrology is that it is inconsistent with our theories which have been tested by experiments. In 1975, 189 scientists, including 19 Nobel Prize Winners, pointed out that people who believed in astrology have no concept of the distances from the earth to planets and stars. They advised that we must all face the world and “we must realize that our future lies in ourselves and not in the stars”. Echo of Shakespeare quoted above.

As a humanist I regard astrology as anti-humanist. It denies the free will of man. It is anti-science. The edifice of modern science is built upon of sifting sands of constantly questioning. Science is constant interrogation of the world whereas astrology is stagnant. It is immoral because a criminal might argue that he committed a crime because the stars compelled him to. Astrology, strictly defined, denies the possibility of choice. At least in this 21st Century man must shake off his belief in astrology.



Charles Darwin

When Charles was compelled to enroll himself in school and was there for some time, his father, Dr. Robert Darwin, decided that “he was no good at school”. Charles himself confessed later: “I learned absolutely nothing except amusing myself reading and experimenting with chemistry”. In his adult life, he frankly admitted that in his younger days his friends and his father had considered him “a very ordinary boy, rather below the common standard of intellect.” No school syllabus could hold Charles, who had an assurance that without even education he could live comfortably because of the family's affluence.

Charles's father, Dr. Robert Darwin, was a successful doctor earning considerable amount by the standards of the day. He was a medical doctor like his father, Erasmus. The family was well-to-do and if Charles had followed the family line, he would have been the third generation doctor.

But that was not to be. Few even in those days appreciated the habit of a boy who was bent on studying nature. He was studying big animals and collecting small ones. His favourite was “beetles” of which he had a big collection. He was also a bird watcher.

Charles Darwin never lost his boyhood fascination with nature. He grew up in a town surrounded by wood and wild life. Often he dredged up sea creatures and dissected them to see their anatomy. Love of nature to some extent ran through the family. His mother kept fancy pigeons and his father raised exotic fruit. His

grandfather, Erasmus, also a doctor, was also nature-lover and propounded a theory of the world which was akin to evolution which later was developed by his grandson. Erasmus was a man of curiosity. He divided much of his writings (he was not an active medical practitioner) into two major questions: While all living things are related through common ancestor and by what means one species might develop into another. He was a formal believer but his son Dr. Robert was practically a non-believer and free-thinker. He did not believe in the Bible. It was not the next world in which he was interested. How to get along in this world, that was his concern.

Despite his disbelief, he wanted to be a priest a man of church so that he would indulge in outdoor activities such as watching nature and collecting insects. Dr. Robert desired that Charles should follow some settled life and need not earn much money. In his opinion, a person must be a respected person in the society and have enough opportunity for outdoor life. Charles did not take to it. Earlier he was not successful in school life in Cambridge. Nor did he make any mark in the medical college in the University of Edinburg where his father fondly sent him. The elder brother was also pursuing medical studies. That did not inspire Charles. Charles studied for two years to please his father of whom he was fond. What finally made it impossible for him to continue were shockingly brutal surgical procedures of the time (without anesthesia).

To be sure, Charles never lost his boyhood fascination for nature. He would observe birds; he collected beetles; he analyzed the fossils. Now an opportunity knocked at his door. Captain Robert FritzRoy was the captain of a surveying ship and he wanted a good assistant to accompany him to America. Charles was not the first choice. The ship H.M.S. Beagle was to go along the shoreline of America and Capt. FritzRoy wanted, not a mere "collector" but also a gentleman who would be a companion to the Captain. For some reasons, two candidates failed and Charles was chosen not with enthusiasm by his family. In those days, such ships going around the world were nicknamed "floating coffins".

Anyway Charles set sail. As luck would have it, Capt. Fritz Roy, a strong believer in the literal interpretation of the Bible could not have imagined that his ship would become the birthplace of an evolutionary biology, Charles, as other members of the crew came in contact with different tribes, a fact which did not interest him. He went on observing and collecting specimens which interested him. The trip was an endless parade of wonders and it lasted five years.

Before that they arrived at a group of islands called Galapagos Islands in September, 1831. Five main islands formed Galapagos Archipelago. Large tortoises and lizards abounded. There were plenty of sea animals but there were no land animals. Charles spent nearly five weeks on the islands and studied the Galapagos carefully and intensely. Galapagos in Spanish means “pony saddle”.

Are all tortoises the same, all over the world? An unusual reply to Charles in an unusual way. The Governor of an island mentioned to Charles that he could identify any of the giant tortoise shells that Darwin had collected according to the island from which it came, which meant that each island has been inhabited by a different set of species.

In the meantime, Darwin had sent home “Volume of the Beagle”, detailing his experiences on the ship. Published as a book, it was devoured by the English because of its exotic experience. Sir Arthur Conan Doyle, creator of Sherlock Holmes, liked it and admired Darwin's “gentle and noble firmness of mind.”

On 2nd October, 1836, nearly five years after it left England, the Beagle returned loaded with Darwin's specimens. He did not study and analyse them immediately. He was now 39 years old and it was time to get married, which he did. It was his cousin Emma who gave him 10 children, 7 only survived. Darwin found a palatial house and settled down.

He was now a family man, sitting over what he himself called a “chaos delight”. He had a mass of evidence which at that time led to nothing. His grandfather, Erasmus, had in his own time his

theoretically developed, what was then called, “development” or “transmutation”. It was in fact evolution without a solid base which could only be provided by the mass of data over which Charles Darwin was sitting. It was long on speculation and short on facts. Charles was a scientist and would not write anything without facts.

Around this time he came across the Malthusian theory of population which showed, among other things, how the population is controlled by the “survival of the fittest”. That phrase set Darwin thinking and drawing inferences from the data he had accumulated. The conclusion at which he arrived at was called natural selection which led to variation of the species. It was the survival of the fittest and not the strongest. A species that adapts itself to the conditions of environment that will survive, though a stronger species will fail. This is in sum, the survival of the fittest. In due course, a species “evolved”. The theory of evolution has been modified and sharpened, since Darwin's time, though the mechanism of genetics of Mendel and, to some extent, by “chance and necessity” of Jacques Monod.

Darwin published “Origin of Species” in 1859 so that today we observe 150th anniversary of the theory of evolution and bicentenary of Darwin's birth. It should be mentioned that Wallace, who was working in scientific exploration in Malaya, had come to the same conclusion. Both were scientists. There was no rivalry between Darwin and Wallace. The latter, interestingly, was a firm believer in the Bible. Even today there are in America believers in creation or intelligent design. Isaac Asimov, in his *Guide to Science*, has mentioned that the earliest reasonable event recorded in the Bible can be referred as the reign of Saul, the first King of Jews, who is believed to have become the king about 1025 B.C. James Ussher, an Irish Bishop of 17th Century, calculated that the world was born on 23rd October, 4004 B.C. All scientific research today shows that the earth is billions of years old.

Darwin had not said that man has evolved from ape, though many people mistook that his hypothesis suggested so. On June 30, 1860, a

meeting of the British Association of Advancement of Science took place in Oxford. Samuel Wilberforce, the powerful bishop of Oxford, who was innocent of science, spoke. Turning to Thomas H. Huxley, he snidely asked whether he would be descended from an ape on the side of his grandfather or his grandmother. Huxley was a great, recognised scientist of the time. He replied in subdued words:

“When we talk of descent, we are speaking of thousands of generations, not one's immediate family. I have listened carefully to My Lord the Bishop's critique of Darwin's theory, but have not heard him advance any new facts or arguments that have already been advanced.”

Proceeding further he said:

“If a question is put to me: Would I rather have a miserable ape for a grandfather or a man of great gifts and intellect, who uses his exalted position and tremendous influence for the mere purpose of ridiculing those engaged in serious scientific investigations, I unhesitatingly affirm my preference for the ape.”

Huxley was a great defender of Darwin's theory, so much so that he came to be known as “Darwin's Bulldog”.

Forces of creationism and of anti-Darwinism were active in the nineteenth century. They were not inactive in the twentieth century either. The Tennessee legislature had passed a law prohibiting the teaching of evolution. To test the legal and constitutional validity of this law, John Thomas Scopes was persuaded by some to teach the subject which he did. He was duly prosecuted. That was in 1927. The local population and William Jennings Bryan, a person who had lost three presidential elections, was the Judge. Jurors and the Judge were anti-evolutionists and hence prejudicial against Scopes. Clarence Darrow, the famous criminal lawyer, appeared for the defence. Darrow wanted to call witnesses to prove that the theory of evolution was scientific. He was not allowed to do so. The only question the Judge thought important was whether Scopes had disrespected the law which he has admittedly done. Scopes was

held guilty. But in appeal the conviction was set aside and the matter was not proceeded with later.

“Creationism” and “Intelligent Design” are popular in the United States even today. Such active anti-scientific attitude is not perceptibly prevalent in other countries. Darwin has remained popular and many cities in many countries have been named after him. No other theory based upon data has been canvassed to dislodge Darwinism. Fortunately, Darwinism was not dragged to the Court again.

The theory of evolution became well-settled in the scientific field. In 1996 even the Roman Catholic Church has accepted it. Believers have conceded that the story in the Book of Genesis is not literal but allegorical. Today there is no doubt about the theory of evolution.

The Royal Society (of Science) is the world's most respectable scientific institution. It counts Darwin among its previous members. Today it boasts of several Nobel Laureates as its members. It wants creationism to be taught in schools. It is one thing to study; another to learn. There is nothing to be learnt about creationism. God created the world in six days and enjoyed a holiday on the seventh. One Prof. Michael Reiss, a biologist and Director of Education in the Society, has mooted this idea. Though Prof. Reiss has now been expelled from the Society, the idea has not been buried. The London Times described as turnaround the Society which had only in 2007 issued an open letter declaring that creationism had no place in science classes. Prof. Reiss now says that because something lacks scientific basis is not good enough to exclude it from science classes. Strange logic, indeed. Reports tell that entire scientific community is alarmed.

It is the view of Prof. Reiss that one should know what is creationism it might be studied, not learnt or taught. It is too late in the day to talk of creationism, when even the Church has conceded that creationism is no longer true.



Evolution, Creationism and Intelligent Design

In 1925, the State of Tennessee in the U.S.A. passed a law forbidding teachers in publicly supported schools of the State from teaching that humans had evolved from lower forms of life. Since Charles Darwin had, from a mass of examples, shown that every species had evolved from a lower form of life, the State law was clearly anti-evolution. To challenge the constitutionality, a teacher named John Thomas Scopes taught his class on evolution. He was prosecuted.

Unfortunately, the local population and the Judge who tried the case were intensely anti-evolution. William Jennings Bryan, who had failed to win Presidentship three times, was the Judge. Clarence Darrow, the famous atheist criminal lawyer, defended Scopes. The trial, known as Scopes trial or monkey trial, ended in the conviction of Scopes. In appeal, the conviction was set aside on technical grounds. There was no further appeal by the State. There was a change in the Board which managed the school and the new Board also did not pursue the matter.

The verdict was ridiculed inasmuch as it held that the theory of evolution was not a science and creationism was science. There is no other case in U.S.A. or in any country which suggests that evolution is not a science. As is well known, the U.S. Constitution prohibits religion from the State and naturally the State-supported institutions such as schools.

What is science? There are two methods by which knowledge is

gained. The deductive method and the inductive method.

All men are rational,

Aristotle is a man.

Therefore it follows that Aristotle is rational. But if the major premise was “some men are rational”, in order to prove that Aristotle is rational, one has to include him in “some men”. This can be done only by induction. Induction is the method by which one arrives at knowledge on the basis of evidence. You cannot guess knowledge. You can induce or arrive at or prevail upon. A scientist propounds a hypothesis and proceeds to collect evidence to see whether that hypothesis is correct. All crows are black. By noting that every crow which he comes across is black, he propounds that all crows are black. This is theory though it is a falsifiable one. One white crow anywhere in the world falsifies the theory that all crows are black. In other words, a proposition which is based upon evidence or extant facts is taken as true till something contrary appears.

In 1831 A.D. a young man of 22 years joined a ship as a mate. The ship was named “Beagle”. As the ship sailed down the east coast of South America and up the west coast, Darwin collected plant and animal life of various forms. He found that various finches showed evolution from lower life to higher life. Further studies showed this to be the case of other animals also. Darwin inferred that a species evolved from a lower life to a higher life. This was true of man also. This was the evolution of man. This theory is based upon massive evidence, not contradicted by any other evidence. Hence Darwinism is a theory and a scientific theory. To this day it holds the field. The theory of Darwinism (of evolution) has been modified and sharpened in the 20th century by advances in genetics and mutations. For this article it is not necessary to go into details of subsequent developments.

But the forces of darkness are never easily defeated. Fundamentalists like Bryan kept alive the attack on evolution. The obscurantists, in Scopes trial, had won the battle but they lost the war

in the long run. The intelligent and intellectual public and all the scientists accepted the theory of evolution as modified by subsequent scientific knowledge. The obscurantists, however, insisted that the world was a creation, created by the creator. This is the sum and substance of creationism. Later they abandoned the literal first chapter of the Bible containing the account of Genesis.

As recently as 2005, the attack on science in general and the theory of evolution continued. Most of the debate has taken place in U.S.A. where there are many fundamental sects. In *Kitzmiller v. Dover*, there was a concealed challenge to Darwinism. Judge Jones ruled conclusively and in strongly worded language that intelligent design was not a science. He explained:

“ID (Intelligent Design) violates the centuries old ground rules of science by invoking and permitting supernatural causation; (2) the argument of irreducible complexity central to ID employs the same flawed and illogical contrived dualism that deemed creation science in the 1980s, and (3) ID's negative attacks on evolution have been refuted by the scientific community.”

Somewhat echoing Judge Jones' language, an Arkansas Federal Court reviewed the creationist movement and concluded that it was nothing but a disguised attempt to teach the Bible in the science class. In 1988, the U.S. Supreme Court dealt with a Louisiana law as advancing a particular religious belief. As early as in 1799, a wall of separation, in the language of Thomas Jefferson, had been erected between the Church and the State by the First Amendment. Thereafter the U.S. Supreme Court has consistently held illegal the introduction of religion in public institutions. In one case, Justice Hugo Black, a devout Christian and a Sunday School Teacher, held that even a non-denominational teaching is prohibited. He pointed out that religions like Buddhism and Humanism did not believe in God.

Fundamentalists were shrewd and clever. They abandoned their stand on the literal interpretation of the Bible and mounted a new,

more insidious attack on evolution. They spoke vaguely of a creator and were careful not to use the words of the Bible. They, however, argued that evolutionary theory was full of flaws and could not be true. Therefore creationism was true.

In order to prove that the theory of evolution was not true, they resorted to quoting out of context, misquotations and distortions and did not examine the evidence so assiduously collected by Charles Darwin. They contended that their view was correct without adducing evidence in support. Though they did not seek the ouster of evolution from the schools, they demanded that creationism be given equal time. Their constituency is usually the churchgoers who knew no science or scientific method.

Creationists seek the propaganda value of being able to say that their views are based upon science. Even the scientific (actually technological) instruments are attributed to creationism. They do not answer the question as to what creationism is and how it is scientific. Where is the evidence of creation except that universe is a creation and there must be a creator. All scientific research and investigation show that the universe came into existence billions of years ago. Yet one Mr. James Usher, an Irish seventeenth century archbishop, propounded that the creation of man took place on 23rd October 4004 B.C. His calculation was based entirely on Bible.

Creationists are losing ground, if they have not lost it already. So Intelligent Design (ID) people have taken over. ID claims that certain features of the universe and of living things are best explained by an intelligent cause; there cannot be an undirected process such as natural selection. It is a new, 'respectable' name for creationism and has been canvassed by one Charles Thaxton. The difference between creationism and ID is that ID does not name a creator; it claims only that some things are too complicated to have come into existence without a creator. In this way ID tries to avoid religious cloak and presents itself as a scientific theory. To be taught in a school, a claim must not only be scientific; it must also be well established. How do

you explain the explosion of “kanishka” in which hundreds of innocent lives, including those of women and children, were lost? To take a recent example Tsunami. ID does not and cannot explain it. The U.S.A. is repeatedly battered by hurricanes. It is not very intelligent. There are earthquakes, epidemics, famines, etc. and no amount of intelligence can explain these things. After all, it is law-governed universe and only science can explain these things. No scientist worth his name has subscribed to the theory of I.D.



Rationalists on Trial

All rationalists must guard against lapses into non-rational behaviour in their daily lives. They cannot, in the very nature of things, be members of this or that religious association, wear caste-mark or holy threads, observe fasts, go to temple-festivals and so on. The writer is aware of the fact that in many cases, external influences are so powerful, that it is impossible for all but the most exceptional to stick to their convictions and bring them into practice. But if there is any compulsion one must try one's best to resist it, or if resistance is impossible, submit only under protest. We must always remember that we are on trial. We are being observed with greater minuteness than other people.

- R D Karve
Reason, Feb 1932



The “Monkey” Trial

It is more than two centuries ago that the profounder of the theory of evolution was born. In 1859, Charles Robert Darwin published his first book viz. “Origin of Species”, followed by “Descent of Man”. It is true that almost simultaneously Alfred Wallace canvassed the same theory of evolution. Unfortunately, Wallace was poor and working in the Far East. Unfortunately, again, Wallace despite evolution was a believer in Genesis of the Bible.

I am giving some details of what is known as “monkey” trial. It was by anti-Darwinists as they thought, wrongly, that Darwin taught that man had descended from monkey as a result of evolution. What Darwin implied was that as a result of evolution of thousands, perhaps millions, of year's age man and monkey had common ancestor. In any case, what Darwin taught was clean contrary to “Genesis” in the Bible which is regarded as a word of God.

Logically, what the opponents are saying is hopelessly wrong. After all, The Bible was written by a man or men when God created the world. How could they know how God created the world as mentioned in Genesis. However, the Church has now accepted that Darwin may be right and that Genesis was allegorical. Creationists and those who canvass Intelligent Design theory are not logical, let alone rationalists.

In 1910 the Presbyterian General Assembly had enunciated “Five Fundamentals” as basics of Christianity. Those five were the miracles of Christ, the Virgin birth, the Crucifixion, the Resurrection

and the Bible as directly the word of God.


Darwinism was obviously inconsistent with or contrary to the five fundamentals mentioned, especially to Genesis in the Bible. As is well known, the U.S. Constitution as amended by the First Amendment forbids the teaching of religion in schools. The Constitution does not prohibit the teaching of non-religious or scientific subjects. There is, what Thomas Jefferson said, a wall of separation between the State and religion in U.S.A. The reverse, however, is not true. The Constitution has no embargo on instruction of scientific subjects. At the same time the Constitution does not bar teaching of scientific subjects. Evolution, which is a scientific subject, can be taught in school.

The State of Tennessee thought otherwise at least the legislators in that State. Because the theory of evolution is, in effect, anti-Christianity, a law was passed making it an offence to teach Darwinism. One John Scopes was a teacher in the school. 'Civic Biology' by George William Hunter was being used in schools for long time. That book contained an exposition of Darwinism. The book was in circulation for 15 years. It was not considered dangerous. But the Tennessee law became operative. In defiance of the said law, Scopes taught that subject and was, therefore, prosecuted. The prosecution contended that evolution contradicted The Bible and, therefore, should not be taught. In any case, it was contrary to Tennessee law. This was in 1927.

The prosecution was led by William Jennings Bryan who had thrice failed to win Presidential election. He was for some time Secretary of State. Apart from these political facts, Bryan was religious in the sense that he unquestionably believed in every word of the Bible. In response to a question by Darrow, Bryan said: "I do not think about things I do not think about". This was a funny answer. He disclosed total ignorance of Biblical facts and sites. Darrow had kept ready scientists who would prove that evolution was a scientific subject and that Bible was a fable. But the Judge did not allow that evidence.

The question before him was not whether evolution was a scientific subject. Was teaching that subject a breach of law? Scopes admitted that he was 'guilty' of teaching that subject. Scopes was held to be guilty. The Judge awarded him "sentence of fine of \$ 100 which was technically wrong because the jury alone could have decided upon and given damages. On this technical point, the judgment was set aside. I do not know why the appeal Court did not set aside only the award of damages and ask the jury to fix the damages.

In the meantime, the administrators of the school had retired and new administrators had come in power. They did not pursue the new trial. The constitutional validity was not challenged. Only it was held that the law had been breached a fact Scopes did not dispute. Fortunately, Darwinism was not taken to Court again, in U.S.A. or elsewhere. By this time all scientists had accepted evolution as an indisputable theory despite creationist or Independent Design.



Science, Superstition and Supernatural

To talk of superstition in 21st century may sound quixotic. But, alas, it is not so. Superstition is not a windmill. The present writer, sitting in Mumbai, is faced with number of superstitions. Maharashtra is regarded as an advanced and liberal State. But it is in Mumbai, some years ago, the story of idol of Ganapati drinking milk originated and spread, through internet, to different parts of the world where Hindus lived. It is only a few days back, the birthday of “Shani” was observed in a village and it was attended by thousands of devotees. If Saturn is “Shani”, it was remarkable that Shani’s birthday is fixed because the scientists have not been able to calculate the birth of the Universe except saying that it was about 14 billion years ago. Even now our rulers go to temples and other places of worship to invoke the blessings of god or gods. The massive celebrations of Ganapati festivals all over India and especially Maharashtra, indicates that we have not imbibed scientific tempers, despite Article 51A of our Constitution. It is; therefore, appropriate to refresh our memory regarding science, superstition and supernatural events.

I will be describing science and scientific method shortly, but before that we must know what superstition and supernatural events are. Saint Paul said that faith begins where there is no evidence. In other words, faith is a belief in a fact without any evidence for it. How is it different from superstition? Concise Oxford Dictionary describes it “credulity regarding the supernatural; an irrational fear of the unknown or mysterious; ...” Superstition has a close connection

with the supernatural which itself has been defined as state of mind attributed to or thought to reveal some force above the laws of nature. It is something magical or mystical. Superstition and supernatural thus overlap each other. Everything that is superstitious is not supernatural but everything that is supernatural is superstitious. *Encyclopedia Britannica* points out that superstitions are of various kinds. In the first place there are religious superstitions prayers, fasting are religious superstitions. There are then cultural superstitions which vary from country to country, from region to region. Number '13' is regarded as inauspicious among Christians as Judas was the thirteenth person at Last Supper. Similarly, number '3' is regarded, in Western countries, as inauspicious whereas among the Hindus it is mandatorily good omen or auspicious. Hindus circumambulate God or any holy place three times. Normally holy water ("*teertha*") is taken three times. In my opinion, every religion is organised superstition. Test any tenet of religion on the anvil of present day knowledge and you will find it superstitious. As J.B. Bury has pointed out: "If the story of Noah's ark and flood is true, how is it that beasts unable to swim or fly inhabit Africa and the islands of the ocean? And what about the new species which were constantly being found in the New World and did not exist in the old? Where did the Kangaroos of Australia drop from?" (A History of Freedom of Thought, 1952 Edition, p.141). The "*Vishwaroopadarshan*" in Chapter XI of Bhagwad Gita is hopelessly contrary to the solar system as revealed by science.

"*Yajnya*" is a common superstitious practice in this country. "*Yajnyas*" are performed so that India might win a cricket match; there will be good rains or even a couple may have a child or a son. Different religions have different beliefs. They are characterized as peripheral beliefs as they are not central to the religions. They are in one sense cultural.

There are cultural superstitions which are unlimited in number and variety. They vary from country to country, from religious groups to religious groups and from region to region. I have already pointed

out the practices surrounding numbers '13' and '3'. Among the cultural superstitions may be mentioned the preference of stones of a particular colour, wearing of amulets or rings, the dread of "*mangal*" in horoscopes.

Then there are social superstitions, the basis of which it is difficult to guess. The colour of clothes, particular pens, beliefs in the directions, "*Vaastu Shastra*", etc.

Why to object to such innocuous beliefs? An irrational practice indulged in repeatedly by an individual or a society debilitates that individual and that society. They present a grave threat to the rational basis of human society. A great hazard lies in the erosion of reasoning capacity of human beings, being an impediment to social and human progress. Another danger is that repetitive acceptance of superstitions requires some guru or priest to interpret them. This is putting the clock back.

Readers do not need a long dissertation on what science is. Nevertheless, it is better to refresh one's knowledge. The most common meaning of science is a body of established, verifiable and organised data secured by controlled observation, experience or experiment. The scientific method is the method followed in obtaining such data.

At one time when the world was in the thrall of Aristotle, it was thought that knowledge is obtainable by deduction only. It was Francis Bacon who thought that Aristotelian system of predominant deduction hampered the progress of science. In his book "*Novum Organum*" he proposed the inductive study of nature through inductive reasoning, experience and experiment. Will Durant called this book "as the firm clear for an Age of Reason" (Age of Reason Begins, p.174). But neither deduction nor induction itself was always sufficient. A scientist formulates a theory which he repeatedly tests to confirm that it is correct. Michael Faraday said:

"The world little knows how many thoughts and theories

passed through the mind of the scientific investigator have been crushed in the silence and secrecy by his own severe criticism and adverse examination that in the most successful instances not a tenth of the suggestions, the hopes and wishes that the preliminary conclusions have been realized."

(Cited by Karl Pearson in "Grammar of Science")

That is the method of science the scientific method. There is nothing esoteric in science.

At one time when smallpox was prevalent (now it is eliminated all over the world), it was thought that smallpox was an infliction from a Goddess. In India it was called a "Devi" and in Mumbai a temple was erected to "*Sheetala Devi*". An interesting incident is worth mentioning. Dr. Edward Jenner of Scotland asked his milkmaid why she has not got smallpox when people of her class had all got it. Her answer was simple: "Doctor, I have got cow-pox and so I cannot get small-pox." The doctor thought that one who has got cowpox a smaller infection would not get the larger infection, smallpox. This was his observation as also of Sarah Nelves, the milkmaid. Dr. Jenner took small matter from her infected hand and inserted it into the arm of a boy called James Fibs who was later found to be immune to smallpox. This was experiment. Observation and experiment. That is scientific method. But still *Sheetala Devi* in Mumbai is being worshipped. That is superstition about supernatural.

Unfortunately, many men and women take recourse to amulets, application of oil or ashes to the body. They get well, as they should, in most cases. The experience is correct but the conclusion is wrong when they think they are cured because of amulets or ashes.

The scientist tries to get rid himself of all faiths and beliefs when seeking answer to any question. He does not depend upon or seek answers in revelations as religions have done. The man of science seeks evidence in the case of all traditions of beliefs and practices.

By supernatural, we understand information, beliefs, theories,

claiming origin other than verified or verifiable experience or events contrary to known processes of nature. It is “out of the world”. Production of wine from water alone, resurrection of the dead, creation of the world these are all supernatural events unverified and unverifiable. Old Testament tells us of the arrest of the sun through space so that the Jewish could kill a few more Canaanites. You will find many more fanciful fables in Bible, Ramayana and Mahabharata. These supernatural stories are to be found in all religious books. Some times we find a sprinkling of it here and there in social habits, customs, etc. King John I propounded the theory of divinity in Kings and divine right of Kings. Unfortunately, his son Charles I was beheaded and in due course democracy, the rule of the people, came.

Most religions have in common the view that sometime, somewhere God or Gods, supernatural beings, communicated to some man, who later came to be regarded as a Prophet, information on the origin and nature of man and the world. In all such cases, the revelations occurred so long ago that the person to whom these revelations were made has been buried and we cannot analyze the facts.

The most serious aspect of the supernatural is not the so-called revelations, but the miracles, the myths and guesses and the injunction that all this must be taken on faith; not to do so is forbidden, it is a sin. With the birth and progress of sciences, the revelations are found to be inaccurate and false. Yet people cling to them. The revelations have been of no assistance in the progress of the society and the world. Those revelations were guesses in the light of the then extant knowledge.


No doubt, today many “intellectuals” reject much of anthropomorphisms. So they have invented theory of intelligent design. They retain a distillate of the supernatural in the form of beliefs, or design or “moral purpose” of the universe. Is this superstition or belief in supernatural? After all, the world is a-moral.

The theory of personal immortality is to be found in *Karmavad* in

India. It is partly mythological, partly supernatural, partly philosophical. The Bhagwad Gita teaches you that atma drops old clothes and acquires new ones. The body perishes; the atma survives. But it is the body which is born and which becomes "*bhasmibhoot*". How are, then, the effects of one's "*Karma*" visited upon a man? This internal conundrum is practically insoluble.

The ethics of supernaturalism may also be considered not philosophically but from a common sense point of view. The ethics of science is simple: absolute honesty in recording and presenting data to arrive at truth. It is possible to argue that supernaturalism is an early attempt at learning about man and the world. We can have thus no quarrel with Jesus, Confucius or Zoroaster who did not talk of supernatural. But today to accept the prophets with revelations is not pardonable. It is impossible to condone the tyranny to which Galileo was subjected. Intellectual tyranny is as immoral as, or worse than, physical tyranny. The supernatural theories of sin, personified evil, redemption, eternal damnation, etc., do create disturbances in man's emotional life and debilitate him in the long run.

Science nurtures inquiry; the supernatural stifles it. The two are obviously incompatible. To suppress inquiry, freedom of thought, quest for truth is itself immoral or unethical. Supernatural is a foe of science. So also superstition. Every superstition has a shade of supernatural in it; every supernatural is superstition. To a humanist who believes in autonomy of man, both are dangerous.



Some Reflections on Indian Secularism

To a rational mind, talking of Indian secularism appears to be odd. We have heard of Christian Democracy, Social Democracy and even, as in Communist countries, of People's Democracy. But in political literature one has not heard of species of secularism.

The word "secularism" was coined by George Holyoke as any dictionary will tell you. It means the affairs of this world must be governed by criteria of this world, and not by commands of a divine being or by religious fatwa or opinions.

The idea of secularism became prevalent since European enlightenment, though the word was not in vogue. Even before George Holyoke, secularism was embedded firmly in American Constitution. By the First Amendment, it erected what Thomas Jefferson called "a wall of separation between the Church and the State." It meant that the State shall not have any official religion nor will it contribute towards the maintenance of any religion, directly or indirectly. The citizens of the State are, however, free to follow any religion they profess. There are more religious sects in America than in any other country. Yet, the State of America is totally secular by virtue of the provisions in its Constitution. The society is not secular.

Similarly, France by process of Evolution since 1789 has become secular. Since 1905 the State of France has become totally secular. Even the society has become secular inasmuch as a Muslim lady is not allowed to use a scarf on her head, a symbol of Islamic culture.

There is a debate going on at this time.

The most firm of secularism is, however, to be found since 1925 in Turkey where Kamal Pasha abolished all religious schools, *Shariat* and even religious costumes. He encouraged women to take up modern education. A woman in a skirt (Ms. Chiller) became the Prime Minister of the country. Wearing of fez cap, a symbol of Islam, was banned. All this became possible because of dictatorial attitude of Kamal Pasha and after him by the attitude of Military. However, rumblings are now a days heard because of the worldwide Islamic revival. It remains to be seen how long the Military which has remained loyal to Kamal's ideology will remain firm.

The Indian National Congress, which had spearheaded the freedom struggle, had in 1930 Karachi Congress (the first Congress Roy attended) passed a resolution on fundamental rights, which included religious freedom. India which has been a land of many religions will continue with the multiplicity of religions. The word 'secular' was not known among the leaders of those days. There was not much discussion on the subject.

India became partitioned. Of the two nations born, one was a communal State. The Indian Constituent Assembly debated the question. Almost unanimously it was decided that India would remain multi-religious. Only Prof. K.T. Shah suggested separation of State from religion (on the model of U.S.A.).

Ultimately, a Constitution emerged with provisions which allowed all religions to exist but with the provision that any educational institution, financed entirely from public funds, shall not take part in religious articles. In Mumbai, for example, Elphinstone College, which is totally a Government Institution, shall not impart religious education, but St. Xavier's College, which receives large amounts from Government, can. There is not enough space here to dwell on the large scale implications on this feature.

Fortunately, Prof. Donald Smith of Princeton University (USA) has made a detailed study of the provisions of the Indian Constitution in

“India as a Secular State” and has opined that India is a secular State to a *certain degree*. This is an inaccurate account, even an unfortunate conclusion. A State is a secular State or is not a secular State. On the material which Prof. Smith studied, it is clear that India is not a secular State. At best one can say that there is accommodative pluralism of religions.

The Indian attempt at redefinition of secularism demands an acceptance of the values of other religions while permitting to practice one's own religion. “The Indian concept of secularism is full of contradictions and is therefore unable to provide a clear unambiguous guidance either to the individual or the State.” (H.Y. Siddiqui in 'Quest for Secular Polity', edited by Bidyut Chakravarti, Segment Book Distributor, Delhi)

The Swarn Singh Committee (on Federal-State relations) suggested the insertion of the word “secularism” in the Constitution. Pursuant to this suggestion, “Sovereign Socialist Secular Democratic Republic” was substituted for “Sovereign Democratic Republic” in the preamble by the Forty Second Amendment with effect from 3rd January, 1977, soon before lifting the internal Emergency. In the largest Constitution of the world, the word “secular” is not to be found despite its insertion in the preamble.

Only in Article 25 it is mentioned that the religious freedom guaranteed by the said Article does not prevent the State from making any law regulating the secular activity which may be associated with religious practice. Neither in Article 366, which gives definition of certain words in the Constitution, nor in Article 367 dealing with interpretation of the words used, is the meaning of the word 'secular' given. Forty-Fourth Amendment sought to define “secularism” as meaning “*Sarva Dharma Samabhav*”. The amendment was passed by the Lok Sabha where Janata Party was in majority, but was defeated in the Rajya Sabha where Indira Gandhi's Congress Party was in majority. Be it noted that, it was Indira Gandhi's captive Parliament which added the word in the Preamble. “Secularism” became a football.

What is the true meaning of “secularism”? George Holyoke, in effect, laid down that the affairs of this world must be guided by the laws of this world, not by the arbitrary authority of a so-called revelation or an individual. In U.S.A. there is a wall of separation between the Church and State. No religious qualification is necessary to hold any public office. In France, the Act of 1905 provided that the Republic neither recognizes nor subsidizes any religion. Religion does not and cannot play any part in the State activity. The strongest secularism is, of course, to be found in Turkey where even wearing of scarf or a fez cap, symbols of Islam, is prohibited.

In India, real debate on secularism has not taken place. No statutory or constitutional meaning of secularism is spelt out. An occasion had arisen in 1994 when the Supreme Court swam along with current of “*Sarva Dharma Samabhav*”. In *S.R. Bommai v. Union of India*, AIR 1994 SC 198, Justice Sawant said in his judgment:

“... these provisions by implication prohibit the establishment of a theocratic and prevent the State either identifying itself or favouring any particular religion or religious sects or denominations. The State is enjoined to accord equal treatment to all religions and religious sects and denominations.”

No other Judge differed from this. After saying so, the Supreme Court has not accepted the doctrine of separation, as in U.S.A. Justice K. Ramaswamy proceeded to say:

“Secularism is, therefore, a part of the fundamental law and the basic structure of the Indian political system.”

Ultimately, therefore, as law interpreted by the Supreme Court stands, there is accommodative pluralism, not secularism, in India. Articulate Muslim leaders in India swear of secularism. None of them, when in an Islamic State, talks of secularism they dare not. Syed Muhammad Ali Naqib Al Attar, a renowned Islamic scholar of Malaysia, has written a book, “Islam and Secularism” (Hindustan Publication, Delhi) from which I have taken the liberty of giving

some quotations:-

“Islam totally rejects application to itself of the concepts secular, secularization or secularism as they do not belong and are alien to it in every respect. (page 23)

“A revealed religion as we understand it is complete and perfect in its adequacy for mankind from the very beginning. The Holy Quran says that Islam is already made complete and perfect for mankind. (page 27)

“Not only is a secularization the expression of an utterly un-Islamic world view, it is also set against Islam, and Islam totally rejects the explicit as well as an implicit manifestation and ultimate significance of secularization.” (page 38)

MN. Roy was rightly skeptical about India being secular. Roy doubted whether India would ever be secular. He noticed that religious ritualism has also been associated with public functions. In an article reprinted in “Secularism in India” (Edited by Prof. V.K. Sinha) Roy said:

“Ceremonious State functions on the occasion of the transfer of power were religious, according to spiritually prescribed rules. In some places, it went to the extent of selecting the auspicious moment according to the advice of priestly astrologers.”

In a later article, reprinted on page 152 of the same book, he exclaimed in exasperation “all profession of secularism is meaningless.”

Secularism operates in three levels. State as secular; society as secular, individuals as secular. Roy wanted secularism to grow from below. Alas, radicals have failed in their task.

Look at what accommodative pluralism is. The second largest party in India, which led the Government, facilitated the destruction of Babri Masjid leading to 1993 riots in Mumbai. On every Ashad Ekadashi the Chief Minister of Maharashtra is the chief worshipper of Vithoba at Pandharpur. The Government of India annuls the

Supreme Court decision on *Shah Banu* case but holds *Iftar* parties. Midnight mass on Christmas is too cold for politicians to attend. An amount of over Rs.400 crores is given to pilgrims to Haj every year. Haj is one of the five pillars of Islam which is to be taken by every Musalman who is able-bodied. Is it Islamic to take money from the general exchequer which carries the fingerprints of non-Muslim citizens of India?

Anti-Sikh riots of 1984 and anti-Muslim riots of Gujarat should put any Government to shame. Raj Dharm taught by Rama to Bharat in Balkand of Ramayan was sought to be reminded to Narendra Mody by Bajpai to no avail. The practices followed by Indians and the Indian Government are opposed to secularism but even to accommodative pluralism.

Rajiv Gandhi Institute for Contemporary Studies, New Delhi, had organised a meeting in New Delhi in 1994 in which late Prof. Rashiduddin Khan of Humdard University contributed a paper, one paragraph of which reads as follows:-

“The secular character of the State is exhibited when it remains distant from, distinct from, religion dominated politics. A secular, in the pursuit of State activities, governmental obligations, and administrative duties, should Exhibit a capacity to show a respectful indifference to religions and indeed keep vigilant distance from the politics of religious communalism.”

Proceeding further, Prof. Rashiduddin Khan said in words that cannot be improved:

“The modern Indian State is an association of citizens equal and free, irrespective of caste, colour, sex, language, region, climate or status. The State in India is not a federation of religions, nor an aggregation of religious communities. The citizens of India, in law and the Constitution, are members of a common unified national polity. A modern State is based on a Constitution the fundamental, secular, manmade law of the land. Therefore the State should as a State and a secular State, no less, no more.”



Conversion and *Sarva Dharma Samabhav*

Conversion is of various types. From metric to imperial systems or vice versa; alcoholism to teetotalerism; theism to atheism. We are not concerned with these conversions. There cannot be any dispute about these phenomena.

Conversion from one religion to another is the one that concerns us. That too mostly in India which is a multi-religious nation. In the world there is no other country in which almost all religions are present. Unfortunately, Jews are in a small number. They have, most of them, migrated to Israel.

There were Muslim Kingdoms in India for 700 years. Yet the Muslim population never exceeded 20%. Some were probably converted by force. Some were converted because of the influence of Sufism. Many may have converted for convenience because it was convenient to belong to the religion of the rulers.

The British ruled for over two hundred years. Yet the Christians formed 3% of the population. It appears that the British as rulers did not impose Christianity on the population. In fact during the Company rule, missionaries were banned. It is possible that some embraced Christianity in order to please the rulers or to be on the preferential list to obtain employment.

Both Islam and Christianity are Semitic religions and are proselyting religions. They believe in increasing their numbers. Islam spread partly by sword, partly by preaching, partly because of the influence

of Sufism. Islam is present all over the world except in Western sphere. It never crossed Atlantic. It is present in Europe. For example Albania is totally Islamic because of Ottoman conquests. At one time it spread over large parts of Europe and Asia; it conquered Spain, till it was driven out by Ferdinand in 1492; Ottoman Islam knocked at the gate of Vienna twice. Islam spread rapidly and today Moslems are found everywhere, except in America and Australia.

Christianity, which is more than 600 years older than Islam, spread more slowly and for some time less spectacularly and Europe went through a dark age when Arab scholars were collecting old scholarship especially from Greece. The enmity between Islam and Christianity was very pronounced. Dante pushed Mohammed into eighth hell.

Christianity, as a religion, spread only after St. Paul propounded its doctrines. Jesus was crucified, put in a sepulcher, and rose again. Christians accept as a necessary part of their religion crucifixion and resurrection. Islam and Judaism are fiercely monotheistic. Trinity is a part of Christian faith. God, son of God and saviour in the person of Jesus and Holy Spirit are together Trinity.

Islam denies all this.

“They say (God) Most Gracious
Has begotten a son.
Indeed you have put forth
A thing most monstrous.”
“Say not Trinity; desist:
It will be better for you:
For God is one God.”
“That they said (in boast)
We killed Christ Jesus
The son of Mary,
The Apostle of God
But they killed him not,
Nor crucified him.”

These are quotations from The Holy Quran (edited by A. Yusuf Ali). In Sara IX (titled Tauba) it is specifically denied that Jesus was the son of God.

Divinity of Jesus, crucifixion, resurrection and Trinity, which are the foundation of Christianity, are all denied by the Holy Quran. This point is being stressed here to show that there is no unity among religions. Jews denied that Jesus was the Messiah promised in the Old Testament and got him crucified. Islam denies basic beliefs of Christianity. Dr. Bhagwan Das found on a mere comparison of some stanzas, essential unity among all religion. Maulana Wahidullah Khan has rightly pointed out that the principles of all religions are totally different and unity among religions is a myth. Mohamed Ali, of Khilafat fame, said a believer in the Quran, howsoever degraded he is, is better than Mahatma Gandhi, howsoever noble he is. Yet we talk of Sarva Dharma Samabhav equal regard for all religions. A believer in Christianity and its basics can never truly convert himself into Islam. Sarva Dharma Samabhav is a myth and in fact in the light of mutual contradictions is unwarranted.

To a humanist and an atheist, conversion has no meaning. If no two religions are alike, to convert is to fall from frying pan into fire. In “The Varieties of Religious Experience”, William James has said a conversion experience as leading to loss of worry, truth not known before and the sense of change of world. In other words, conversion implies both a new view of the world and a new sense of self. Of course, conversion need not be dramatic as in the case of St. Paul on the road to Damascus. It may be slow and spread over a long time as in the case of Siddhartha. But why convert at all in the absence of spiritual experience. Is this happening in India with Christian conversions?

These are all my thoughts on the nature of conversions. I have already pointed out the legal position earlier in an article (Radical Humanist, November, 2008). Assuming that conversion is permissible legally or due to persuasion, I have certain objections.

There would be no peace, so long as there is no peace between religions. The Quran says Islam is for the world which will or should become Muslim. Thus there will be no other religion. 1700 years have elapsed since the Quran proclaimed Islam as the universal religion which would prevail over all other religions. Yet today there are more non-Islamic people in the world than Muslims. In India Christians are 2.4 crores while Muslims number 12 crores. Besides, there are religions like Buddhism, Hinduism, etc.

The Quran, Muslims say, is the word of God conveyed to Muhammad via Gabriel whom Salman Rushdi calls postman in Satanic Verses. Yet this word of God has not come true. There are many religions in the world. In "Incredible India" broadcast by Government of India through the television, pluralism of India is shown as the attraction of India which is a land of many religions, many races, many languages, etc. Despite having been subject of foreign rules, Hinduism has remained vibrant. The impact of homogenous religion in the whole world is the destruction of pluralist societies everywhere. The world will not be richer on that account.

Mahatma Gandhi said:

"If I had the power and could legislate, I should certainly stop proselyting"

(Collected Works, Vol.46, p.46)

Swami Vivekananda who had awareness of the existence of many religions and who was a speaker in the Parliament of World Religions in Chicago in 1892 said in anguish: "What have the Hindus done to these disciples of Christ that every Christian child is taught to call the Hindus 'vile' and 'wretched' and the most horrible devils on earth?" (The Complete Works of Swami Vivekananda; Vol.4, page 345). He added in another speech mainly addressed to Christians: "Welcome to your religion, but allow me to have mine." (Ibid, Vol.8, page 212). The Rigvedic prayer says "May noble thoughts come to us

from all over the world.”


Unfortunately, proselytation in India by the Christians has taken place through money, gifts, etc., thus commercializing religion. Mainly the weaker sections are targeted. The Report of the Christian Missionary Activities Enquiry Committee of M.P. Government presided over by Mr. B.S. Niyogi, who converted to Buddhism in 1956, highlights this aspect.

Conversion of one person as a part from the whole family leads to alienation. It leads to disruption of a family. Even if a whole family is converted, it leads to alienation at the social level. Mother Teresa was also a missionary in the cause of service of the poor, but she was not in the business of conversion.

This article is not an invitation to the Hindutvavadis to indulge in violent acts as besieged in Orissa and Karnataka. I am not against conversion on religious ground. Under Article 25 of the Constitution of India, all persons are entitled to freedom to propagate religion, though the word “propagate” has been narrowly interpreted by the Supreme Court ignoring the Constituent Assembly Debates. But that is the law.

Souls are not ready to be harvested as Pope John Paul II said in “Crossing the Threshold of Hope”.

As a humanist, I would urge freezing of all religions at this stage. For that to happen, Muslims must give up the idea of converting the entire world to Islam. Muhammad's seal of prophet hood must be abandoned. Christians should give up the idea of harvesting souls. That will serve the cause of *Sarva Dharma Samabhava* be better than conversions.



Secularism in India: A Balance Sheet

More than 60 years have gone by. Yet the meaning of secularism is neither understood nor clear in meaning to politicians and citizens. Political leaders even talk of '*Sarva Dharma Samabhav*'. Dr. Bhagwan Das canvassed the view long, long ago that there is essential unity of all religions. Maulana Wahiduddin Khan of Delhi has pointed that the basic doctrines of all religions are different and the unity of religions is a myth. The World Parliament of Religions met in Chicago in 1892, which Swami Vivekananda attended, did not pretend that there was unity among all religions. Jews were awaiting for deliverance but got Jesus crucified on the ground that he was not the messiah promised in the Old Testament. Divinity of Jesus Christ, crucifixion, resurrection are fundamental to Christianity and yet roundly denied by the Quran. Judaism and Islam are fiercely monotheistic. Hinduism is polytheistic. Buddhism has no God. Where is the unity?

"Paani, tera rang kaisa? Jisme Milayage vaisa" (Mohmed Rafi's song). Water has no colour. That is how it takes the colour of the thing it mixes with.

Similarly in India, Congress claims it is the secular party; Advani insists that Hinduism, being tolerant, is the secular religion; Communists say that communism being atheist is secular.

But what is secularism? The word was coined by George Holyoke who postulated a complete separation between the Church and the State. The U.S. Constitution erects what Thomas Jefferson called "a

wall of separation between the Church and the State.” Since 1905, France is totally secular you cannot even know the religion of its citizen as it is not recorded in any document, even in census. Kemal Pasha established Turkey as a Secular State by abolishing Islamic features.

But in India even agnostic Jawaharlal Nehru could not found a strictly secular State. In Constituent Assembly, Prof. K.T. Shah was the only member who pleaded for separation of the State from religion. Prof. Donald Smith says that India is a secular State up to a degree because in the Constitution of India there are provisions permitting the use of religion even in State functions and activities. Probably in the context of Indian culture and traditions a strict separation between religion and State was thought to be not possible, even by Constitution makers. For example, Pandit Laxmikant Mishra said, on 6th December, 1948:

“ By a Secular State as I understand it, is meant that the State is not going to make any discrimination whatsoever on the ground of religion or community against any person professing any particular form of religious faith. This means in essence that no particular religion in the State shall receive any State patronage whatever.”

Probably this view reflected the consensus of members of the Constituent Assembly.

Unfortunately, till today no proper definition has been given by politicians. By 42nd Amendment, the word “secular” was inserted in the Preamble without defining the word in Article 366 of the Constitution, which gives the meaning of the words used in the Constitution. By 44th Amendment, an attempt was made to define “secularism” to mean “*Sarva Dharma Samabhao*”. An amendment to this effect passed by the Lok Sabha was rejected by the Rajya Sabha.

Worse still, even the Judges of the Supreme Court, guardians of law, have not dealt with this question authoritatively. The following extract from the judgment of Sawant, J. in *S.R. Bommai v. Union of*

India can be said to reflect the view of the Supreme Court:

“ These provisions by **implication** prohibit establishment of a theocratic State and prevent the State either identifying with or favouring any particular or religious sect or denomination. The State is enjoined to accord **equal treatment** to all religions and religious sects and denominations.” (Emphasis mine). (AIR 1994 SC 1918 at 2002)

A fair reading of the Constituent Assembly debates, speeches of politicians and judgments of the Courts gives rise to the conclusion that India is not a secular State having a wall of separation between the State and religion and that there are non-discriminatory provisions in the Constitution. Have we lived even upto this definition?

Unfortunately, our politicians, whether of right, central or left, have played with secularism prompting L.K. Advani to say Congress is pseudo secularist. There is a feeling among the Hindus that the Congress is appeasing the Muslims. *Shah Banoo's* case is a classic example of stooping low to conquer Muslim votes. The Supreme Court had held that Section 125 of the Criminal Procedure Code is applicable to all communities, including the Muslims who protested the Government set at naught the judgment enacting a law for providing maintenance to neglected or divorced Muslim women.

The Central Budget provides for a subsidy of Rs.84 crores for Haj Pilgrims. It is surprising that Muslims have accepted this amount despite the fact that the amount comes from the common exchequer which is contributed by, among others, non-Muslims. Does Islam permit taking money from non-Muslims for performing Islamic obligation? This is patently a non-secular act. Muslims should regard money from non-Muslims as *haram* because Islam says that a Muslim should go on pilgrimage of Haj if his means permit.

The attitude of our politicians prevents them from taking steps towards non-communal provisions. Islam allows polygamy but

does not mandate it. By enacting a law for providing a monogamous marriage for all, the Parliament does not act in anti-Islamic manner. Similarly, divorce can be regulated by law. Pakistan, an Islamic State, has provided that no *Talaq* is final unless permitted by the Court of Conciliation. Uniform Civil Code is neither desirable nor possible.

There are several Islamic practices which can be regulated by secular laws without contravening Islamic religion. Take for example “adoption”. Muslims believe that by **necessary implication** of certain verses in Quran, adoption is prohibited. There is no covert ban on adoption. “... It is somewhat startling to hear Muslims saying that adoption is prohibited in Islam”. (www.minaret.org).

Every year, large numbers of children are given in “adoption” under the Guardians and Wards Act to foreigners. A secular law of adoption is the need of the hour. The Hindu Law of Adoption does not permit adoption of non-Hindu children. Adoption of Children Bill (1972) was allowed to lapse because of opposition of some misguided communities. Enact a secular law of adoption and make it optional like the Special Marriages Act. If this is done, several malpractices, including the sale of children, would end.

We are a multi-religious society and yet we have schools for particular religious communities. This is by law not banned. But is it not advisable to start and maintain, even by the State, schools which will admit children of all communities? This will serve the cause of secularism.

Demolition of Babri Masjid is a stigma on secularism and even on *Sarva Dharma Samabhav*. By no stretch of expediency, this is permissible. On 6th December, 1992, Kalyan Singh of BJP was Chief Minister of U.P. Now he has entered Samajwadi Party which claims to be a secular party. Is it secularism or even *Sarva Dharma Samabhav*? Demolition of Babri Masjid led, in all probability, to serial blasts in Mumbai in 1993 and consequent communal fights in which hundreds of persons were killed. It has vitiated the political, social and cultural atmosphere of the country '*Sarva Dharma Samabhav*'.

The way we have treated Taslima Nasrin ill-befits secularism.

In 1984 we had anti-Sikh riots in Delhi in which 2000 persons are estimated to have been killed. Anti-Muslim riots in Gujarat, under the Chief Ministership of Narendra Modi, consumed thousands of Muslims. Vajpayee tried to teach Raj Dharma to Modi, not *Sarva Dharma Samabhav* or secularism.

Witness the present attacks on Christians and Churches in Orissa and Karnataka. They are on the liabilities side of the Balance Sheet.

The Sachar Committee Report highlights the disabilities of Muslims. One may regard the recommendations as exaggerated. But the fact remains that Muslims are suffering from several disabilities. To some extent, they themselves are responsible. They still insist on Madrasas. People educated in modern educational institutions have become administrators and police officers. They have become Chief Justices of India, Ministers and Military Officers. At least one Muslim was the Chief of Air Staff. There have been Presidents and Chief Ministers. Muslims must realize that they will not be taken by their hands towards high positions. They must shed their inferiority complex, feeling of aloofness and must actively participate in political and social life. Muslims are no doubt different, but they should not be separate. Hindus who are in majority are by and large tolerant people despite BJP.

You may not sing “*Vande Mataram*”. But say “*Jai Hind*”.



On Secularism - A Second Look

Secularism sounds sweet and means different things to different people. Indian constitution is said to be secular. It does not favour any particular religion. That is why Indian National Congress says it is secular. Hinduism is the most tolerant religion for ages. Toleration pervades Hinduism which, says Mr. Advani, it is (despite Ayodhya and Gujarat) a secular religion. If Hinduism is the basis of Constitution of India, the latter is secular. Therefore B.J.P. is secular. The Communist parties do not believe in God and religion. Therefore, they say they are real Secularists.

Before any one claims to be a secularist, he or she must tell us what he or she means by secularism. The term itself was in vogue from 17th century onwards after enlightenment. But the philosophy of secularism was in practice. The Church had an ubiquitous presence in all matters pertaining to State. As the people realized they should live according to the dictates of present day life, the importance and the power of the Church declined. Especially in the 18th Century, the US Constitution forbade the use of religion by the State. Thomas Jefferson said the First Amendment to the U.S. Constitution erected a wall of separation between the Church and the State. This despite the fact U.S. as founded in the background of religion.

Soon after, the French Revolution took place and the Constitution mandated that there will be no connection between the State and the Church. This, despite the fact that, till then it was the Roman Catholic religion which dictated the Church all activities of the society and the

State. Births and deaths had to be registered in the Church. Education was directed by the Church. Even awards by the state and land distribution had to be approved by the Church. By 1905, France had become a completely secular State.

Today even among the scholars and lawyers there is no agreement on what is meant by secularism. The word was coined by G.H. Holyoake. Fortunately, all the dictionaries, including Oxford Dictionary, give credit to Holyoake as the father of the term. Holyoake defined the term as an ideology, where in social and industrial morality “hitherto determined by reference to transcendental principles of religion were now to be determined by reason, and firmly anchored to the good of man in this life.” Incidentally it may be mentioned that atheism was not necessary for secularism, whereas Charles Bradlaugh, his close associate, said it was.

Etymologically, that word secular in Latin meant the great span of time or the spirit of the Age. Later, it got the present meaning that of “belonging to this world”. Formerly, Christianity regarded spiritualism as a divisive factor in determination of truth and life of man.

However, explaining the denotation, D.E. Smith, studying the Indian Constitution, defined the secular State as “a State that guarantees individual and corporate freedom of religion, deals with individual as a citizen irrespective of his religion, is not constitutionally connected to particular religion, not seeks either to promote or interfere with religion”. Analyzing the concept, Smith postulates three sets of relationships as follows:

- Religion and individual (freedom of religion);
- The State and the individual (citizenship); and
- The State and religion (separation of State and religion)

The first by implication excludes the third. A person is free to have any religion or not to have any religion. In the case of the second relation, the exclusion of the third factor is essential. A Secular State

views the individual as a citizen and not as a member of any particular religion. The third relationship necessarily means that religion and the State function at two different levels different areas of human activity. The separation of the state and religion is the most commonly recognized component of secularism.

Secularism, historically, is not an event. It is the product of a long line of evolution. In a secular society and under a secular State, people have moved away from Church and religion so that human activity in the field of education, art and politics are free from conformity to theological dogma and priesthood. Secular spirit is seen in the fact that the activities of the state are dictated and tested by reason, by experience and experiment.

The fruits of secularism are many. Since secularism treats an individual as a citizen and not a member of a religion, all individuals are to be treated as citizens and, therefore, equally. Each individual is a unit of secularism. The effect will be and should be democracy and equality which all people cherish.


Of course, Hitler's Germany and Mussolini's Italy were also secular. They did not subscribe to any religion. And they did not subscribe to any ideology except fascism. They had no value system. Similar is the case with Russia. Secularism should be scientific, apart from being free from religion. The States mentioned above were not rational either. In this sense, they were not secular. Egypt, Libya and other states in Africa are in the narrow sense secular but not democratic. Though secularism proper should be and is based upon democracy and equality by itself. Secularism properly understood does not lead to democracy, though all citizens are treated equally unjustly.

D.E. Smith, of Princeton University, has made a detailed study of secularism in India. Many people including Smith regard India as secular State because the State is not aligned with any religion and all religions are allowed to exist side by side. No religion is prohibited. Various Articles in the Constitution permit use of religion. However no religious party is permitted under the Representation of Peoples

Act. The Supreme Court has in a case upheld dismissal of a State Government on the ground that it was religious. "Sarva Dharma Sambhav" is accepted as the principle of politics.

Various provisions in the constitution, no doubt, do not support or propagate religion. But they also do not provide prohibition of religion. The State functionaries indulge in exhibition of religion. As early as in 1959, M. N. Roy noted several non-secular and anti-secular features of Indian polity and society. "All profession of secularism is meaningless", he exclaimed. He continued to say: "A secular State should not tolerate a vast, many million strong army of loafers who outrage the ethical and aesthetic sense of its cultural and educated citizens."

Today, the country and Courts have stayed away from strict secularism.



About Rationalist Foundation

Rationalist Foundation is Public Charity Trust for the promotion of rationalism and allied objects formed in Mumbai with a corpus of Rs 500,000 contributed by Justice RA Jahagirdar. The objectives of the foundation are:

- Rationalism, viz. belief in the efficacy of Reason as the sole source of knowledge and that attitude of the mind which does not acknowledge the arbitrary authority of any individual or book;
- Secularism viz. the belief in the irrelevance of religions for the purpose of human lives in this world and in the separation of religion from public affairs;
- Humanism viz. regard for human values and the dignity of the individuals;
- Atheism viz. non-acceptance of the hypothesis of the existence of God and the belief in the irrelevance of God in human affairs

The Foundation promotes its objectives by publication of articles, pamphlets, books or magazines and by encouraging by way of grants the individuals or associations or institutions engaged in the promotion of the objectives of the foundation. It also gives financial assistance to sufferers on account of their having written or spoken for the furtherance or promotion of rationalism, secularism, humanism etc.

The address of the Trust is:

C/o T B Khilare, RH 4, Rajvimal Terrace, Ramnagar Colony,
Bavdhan, PUNE 411021

Justice RA Jahagirdar. (Retd)

Justice RA Jahagirdar (Retd) studied economics and politics for his graduation and post graduation. During his college days he took part in dramas, debates, elocution and Students' Union activities. He studied Law while in employment and passed Law examinations meritoriously in 1959. Having passed the I.A.S. examination, he chose not to join the Civil Service. He served as Government Pleader, Professor of Labour Law in K.C. College and in the University of Bombay.



In 1976 he was appointed Judge in the Bombay High court and retired from there in 1990. After retirement he was appointed Chairman of Monopolies and Restrictive Trade Practices Commission but did not continue for long for personal reasons. He was also Chairman of the Committee for Fixing the Feel of Higher Education in Maharashtra.

In addition to his qualifications in Economics and Law, Justice Jahagirdar is a student of Philosophy, History and Religion. A voracious reader, Jahagirdar is fond of Will Durant and his wife Ariel, the famous philosopher-historian couple and quotes them often. His personal library, containing all the volumes of "The History of Civilization" written by this couple, is huge. Recently he has donated all his books to Academy of Political and Social Studies and SM Joshi Foundation Library, in Pune.

He is connected with free thought movement and organisations and has spoken and written extensively on rationalism and secularism. He had been the Chairman of Indian Rationalist Association, President of Maharashtra Rationalist Association and Editor of "The Radical Humanist". As a Founder-Trustee of the Rationalist Foundation he has contributed Rs. 5 lakhs towards its corpus.

Dr. (Mrs.) Sharad Jahagirdar, daughter of Late Justice PB Gajendragadakar (whom Mharashtrians know very well), is a well known and an extremely successful gynecologist. Together, Dr. Sharad and Justice Jahagirdar have very generously donated to the cause of Rationalism, Secularism, Humanism, Social Justice and Freedom of Expression.

Rationalist Foundation